THE

TRIAL

OF

MR. THOMAS HARDY,

FOR

HIGH-TREASON:

CONTAINING

The Whole Proceedings, from the Opening of the Special Commission, the Judge's Charge to the Grand Jury, Lists of the Witnesses, Jurors, and the Bills of Indictment found against

THOMAS HARDY,
JOHN HORNE TOOKE,
JOHN AUGUSTUS BONNEY,
STEWART KYD,
JEREMIAH JOYCE,
THOMAS WARDLE,
THOMAS HOLCROFT,
JOHN RICHTER,
MATTHEW MOORE,
JOHN THELWALL,
RICHARD HODGSON,
JOHN BAXTER.

TOGETHER WITH

The Arguments of Counsel on the Part of the Crown, and in Defence of the Prisoner.

ACCURATELY TAKEN IN SHORT-HAND,

BY MANOAH SIBLY,

SHORT-HAND WRITER TO THE CITY OF LONDON.

DUBLIN:

PRINTED BY P. BYRNE, 108, GRAFTON-STREET,

1794.

, An Authentic Copy of the Reports of the Committees of both Houses of Parliament, including all the Documents, Letters, and Papers, concerning the Prisoners, which have been produced in Evidence in this and Mr. Horne Tooke's Trial, may be had at P. Byrne's, Price Two Shillings and Eightpence Halfpenny.

TRIALS FOR HIGH TREASON.

SPECIAL COMMISSION.

SESSION-HOUSE, CLERKENWELL, THURSDAY, *Oct.* 2, 1794.

THIS morning the COMMISSION made out for the purpose of bringing to Trial the several persons confined in the Tower, under the charge of High Treason, was opened at this place.

The Judges who appeared, as named in the Commission, were as follow:

Sir JAMES EYRE, Lord Chief Justice of the Common Pleas.

Sir ARCHIBALD M'DONALD, Lord Chief Baron of the Exchequer.

Sir BEAUMONT HOTHAM, one of the Barons of the Exchequer.

Sir FRANCIS BULLER, one of the Puisne Judges of the Common Pleas.

Sir NASH GROSE, one of the Puisne Judges of the King's Bench.

And Mr. Justice LAWRENCE, the Junior Judge in the King's Bench.

The Special Commission of Oyer and Terminer for enquiring, hearing, and determining of all High Treasons and Misprisions of Treasons, in compassing or imagining the death of the King, levying war against his Majesty in the realm, or in adhering to the King's enemies within the realm; or giving them aid or comfort within the said realm or elsewhere, was then read. It is dated the 10th of September, 1794. The following is a list of the Commissioners therein named.

THE MARQUIS OF TITCHFIELD.
SIR JAMES EYRE, KT. C. J. C. P.
SIR B. HOTHAM, KT. B. E.
SIR NAT. GROSE, KT. J. K. B.
SIR CHS. MORGAN, BART.
JOHN SYLVESTER, ESQ.
WM. MAINWARING, ESQ.
PAUL JODDRELL, ESQ.
JOHN LEWIS, ESQ.
JOHN POWNALL, ESQ.
RT. HON. H. HOBART.
SIR A. MACDONALD, KT. C. B. E.
SIR FRANCIS BULLER, BT. J. K. B.
SIR S. LAWRENCE, KT. J. C. P.
SIR J. W. ROSE, KT. RECORDER,
CRANLEY THO. KIRBY, SERJEANT.
EDWARD MONTAGUE, ESQ.
SAMUEL WEGG, ESQ.
ANTHONY DICKENS, ESQ.
HENRY BARLOW, ESQ.

The following is a list of the Counsel who appeared for the Crown.

Sir JOHN SCOTT, Attorney General.
Sir JOHN MITFORD, Sollicitor General.
Mr. Serjeant ADAIR, King's Serjeant.
Messrs. BOWER, LAW, and GARROW, King's Counsel.
Mr. WOOD, Mr. BALDWIN, &c. &c.
Mr. DUNDAS, Lord Advocate of Scotland, was also in Court.

After the Commission had been read, the Grand Jury were called, and the following twenty-three gentlemen were sworn.

LIST OF THE GRAND JURY.

BENJAMIN WINTHROP, Foreman,
JOHN SNEIDER,
EDWARD IRONSIDE,
BENJAMIN KENTON,
ROBERT H. BODDAM,
JOHN EYRES,
W. H. BODDAM,
JOHN PERRY,
JOHN HANKEY,
SAMUEL CUFF,
THOMAS WINSLOWE,
SAMUEL HAWKINS,
GEORGE WARDE,
THOMAS BODDAM,
JOSEPH LANCASTER,
ROBERT WILKINSON,
THOMAS COLE,
GEORGE GALWAY MILLS,
HENRY WRIGHT,
JOHN HATCHETT,
ROBERT STEPHENSON,
JOHN CAMPBELL, and
THOMAS EVERETT, Esqrs.*

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* Next day, the following singular note appeared in most of the public prints:

"Two hundred gentlemen, freeholders of the county, were summoned to attend, in order for them to select the Grand Jury; but for what reason, and by whose directions, we cannot tell, on Wednesday evening the following letter was received by a number of the gentlemen, in order to prevent their attendance in Court. We trust, if it was a forgery, that pains will be taken to ascertain the fact.

"SIR,

"We are this moment informed, that you need not have the trouble of attending at the Session-house, on Clerkenwell-green, to-morrow, nor at the Old Bailey, on Saturday next, pursuant to your summons; but you will have a fresh notice of the time and place when and where you are to attend in pursuance of such summons.

Dated the 1st of October, 1794.

JOHN EAMER, } Sheriff."
ROB. BURNETT, }

The

Rec. June 20, 1904

The CHARGE *delivered by the Right Honourable Sir* James Eyre, *Lord Chief Justice of his Majesty's Court of Common Pleas, and one of the Commissioners named in a Special Commission of Oyer and Terminer, issued under the Great Seal of Great Britain, to enquire of certain* High Treasons, *and* Misprisions of Treason, *within the County of Middlesex,* TO THE GRAND JURY, *at the Session-House on Clerkenwell-Green, on Thursday the second Day of October,* 1794.

(Printed at the Request of the Grand Jury.)

Gentlemen of the Grand Inquest,

YOU are assembled under the authority of the King's Commission, which has been issued for the hearing and determining of the offences of High Treason, and Misprisions of Treason, against the person and authority of the King.

That which hath given occasion for this Commission is that which is declared by a late statute, namely, "That a traiterous "and detestable conspiracy has been formed for subverting the "existing laws and constitution, and for introducing the system of anarchy and confusion which has so lately prevailed in "France;" *a crime of that deep malignity* which loudly calls upon the justice of the nation to interpose "for the better preservation of his Majesty's sacred person, and for securing the "peace, and the laws and liberties of this kingdom."

The first and effective step in this, as in the ordinary criminal proceedings, is, that a Grand Jury of the country should make public inquisition for the King, should diligently enquire, discover, and bring forward to the view of the criminal magistrate those offences which it is the object of this Special Commission to hear and to determine.

You are Jurors for our Sovereign Lord the King; you are so stiled in every indictment which is presented; but let the true nature of this service be understood. The King commands you to enter upon this enquiry; but the royal authority in this, as in all its other functions, is exerted, and operates ultimately for the benefit of his people. It is the King's object, his duty, to vindicate his peace, his crown and dignity, because *his peace, his crown and dignity,* are the *subjects' protection, their security, and their happiness.*

It is ultimately for them that the laws have thrown extraordinary fences around the perſon and authority of the King, and that all attempts againſt the one or the other are conſidered as the higheſt crimes which can be committed, and are puniſhed with a ſeverity which nothing but the *ſalus populi* can juſtify.

The buſineſs of this day calls upon me (in order that you may the better underſtand the ſubject which is to come before you) to open to you the nature of that offence, which I have before ſpoken of in general.

An ancient ſtatute, 25 Edward III. has declared and defined it. I ſhall ſtate to you ſo much of that declaration and definition as appears to me to have any probable relation to the buſineſs of this day.

By that ſtatute it is declared to be High Treaſon "to compaſs "or imagine the death of the King," provided ſuch compaſſing and imagination be manifeſted by ſome act or acts proved (by two witneſſes) to have been done by the party accuſed in proſecution of that compaſſing and imagination; that is, from the moment that this wicked imagination of the heart is acted upon, that any ſteps are taken in any manner conducing to the bringing about and effecting the deſign, the intention becomes the crime, and the meaſure of it is full.

Theſe acts or ſteps are technically denominated *overt acts*; and the forms of proceeding in caſes of this nature require that theſe overt acts ſhould be particularly ſet forth in every indictment of treaſon; and, from the nature of them, they muſt conſtitute the principal head of enquiry for the Grand Jury.

Theſe overt acts involve in them two diſtinct conſiderations: 1ſt, The matter of fact of which they conſiſt; in the next place, the relation of that fact to the deſign.

With reſpect to the mere matter of fact, it will be for the Grand Jury to enquire into the true ſtate of it, and I can have very little to offer to your conſideration reſpecting it; and with reſpect to the queſtion, whether the fact has relation to the deſign ſo as to conſtitute an overt act of this ſpecies of treaſon, which involves conſiderations both of fact and of law, it is impoſſible that any certain rule ſhould be laid down for your government: overt acts being in their nature all the poſſible means which may be uſed in the proſecution of the end propoſed, they can be no otherwiſe defined, and muſt remain for ever infinitely various.

Thus far I can inform you, that occaſions have unhappily but too frequently brought overt acts of this ſpecies of treaſon under conſideration; in conſequence of which we are furniſhed with judicial opinions upon many of them; and we are alſo furniſhed with opinions (drawn from theſe ſources) of text writers, ſome of the wiſeſt and moſt enlightened men of their time, whoſe inte-

grity has been always considered as the most prominent feature of their character, and whose doctrines do now form great landmarks, by which posterity will be enabled to trace, with a great degree of certainty, the boundary lines between High Treason and offences of a lower order and degree.

It is a fortunate circumstance that we are thus assisted; for it is not to be dissembled, that though the crime of High Treason is "the greatest crime against faith, duty, and human society," and though "the public is deeply interested in every prosecution "of this kind well founded," there hath been, in the best times, a considerable degree of jealousy on the subject of prosecutions for High Treason; they are state prosecutions, and the consequences to the party accused are penal in the extreme.

Jurors and Judges ought to feel an extraordinary anxiety that prosecutions of this nature should proceed upon solid grounds. I can easily conceive therefore, that it must be a great relief to Jurors placed in the responsible situation in which you now stand, bound to do justice to their country and to the parties accused, and anxious to discharge this trust faithfully; sure I am that it is consolation and comfort to us, who have upon us the responsibility of declaring what the law is in cases in which the public and the individual are so deeply interested; to have such men as the great Sir Matthew Hale, and an eminent Judge of our own times, who, with the experience of a century, concurs with him in opinion, Sir Michael Foster, for our guides.

To proceed by steps—From these writers upon the law of Treason (who speak as I have before observed, upon the authority of adjudged cases) we learn, that not only acts of *immediate* and *direct* attempt against the King's life are overt acts of compassing his death, but that all the *remoter steps* taken with a view to assist to bring about the actual attempt, are equally overt acts of this species of treason; even the meeting and the consulting what step should be taken in order to bring about the end proposed, has been always deemed to be an act done in prosecution of the design, and as such an overt act of this treason—This is our first step in the present enquiry. I proceed to observe, that the overt acts I have been now speaking of have reference, nearer or more remote, to a *direct* and *immediate* attempt upon the life of the King; but that the same authority informs us, that they who aim directly at the life of the King (such, for instance, as the persons who were concerned in the assassination plot in the reign of King William) are not the only persons who can be said to compass or imagine the death of the King. "The entering "into measures which, in the nature of things, or in the com-"mon experience of mankind, do obviously tend to bring the life "of the King into danger, is also compassing and imagining

"the

"the death of the King;" and the measures which are taken will be at once evidence of the compassing, and overt acts of it.

The instances which are put by Sir Matthew Hale and Sir Michael Foster, (and upon which there have been adjudged cases) are of conspiracies to *depose* the King, *to imprison him, to get his person into the power of the conspirators, to procure an invasion of the kingdom.* The first of these, apparently the strongest case, and coming the nearest to the direct attempt against the life of the King; the last, the farthest removed from that direct attempt, but being a measure tending to destroy the public peace of the country, to introduce hostilities, and the necessity of resisting force by force, and where it is obvious that the conflict has an ultimate tendency to bring the person and life of the King into jeopardy; it is taken to be a sound construction of the statute 25 Edward III. and the clear law of the land, that this also is compassing and imagining the death of the King.

If a conspiracy to depose or to imprison the King, to get his person into the power of the conspirators, or to procure an invasion of the kingdom, involves in it the compassing and imagining of his death, and if steps taken in prosecution of such a conspiracy are rightly deemed overt acts of the treason of imagining and compassing the King's death; need I add, that if it should appear that *it has entered into the heart of any man, who is a subject of this country, to design to overthrow the whole government of the country, to pull down and to subvert from it's very foundations the British monarchy, that glorious fabric which it has been the work of ages to erect, maintain, and support, which has been cemented with the best blood of our ancestors; to design such a horrible ruin and devastation, which no King could survive, a crime of such a magnitude that no lawgiver in this country hath ever ventured to contemplate in it's whole extent*; need I add, I say, that the complication and the enormous extent of such a design will not prevent it's being distinctly seen, that "the compassing and imagining the death of "the King is involved in it, is in truth of it's very essence."

This is too plain a case to require further illustration from me. If any man of plain sense, but not conversant with subjects of this nature, should feel himself disposed to ask whether a conspiracy of this nature is to be reached by this medium only; whether it is a *specific* treason to compass and imagine the death of the King, and *not a specific* treason to conspire to subvert the monarchy itself; I answer, that the statute of Edward III. by which we are governed, hath not declared this (which in all just theory of treason is the greatest of all treasons) to be High Treason.

I said no lawgiver had ever ventured to contemplate it in it's whole extent. The *Seditio Regni*, spoken of by some of our ancient

ancient writers comes the nearest to it, but falls far short of it. Perhaps if it were now a question whether such a conspiracy should be made a specific treason, it might be argued to be unnecessary; that in securing the person and authority of the King from all danger, the monarchy, the religion and laws of our country are incidentally secured, that the constitution of our government is so framed, that the imperial crown of the realm is the common centre of the whole; that all traiterous attempts upon any part of it are instantly communicated to that center, and felt there; and that, as upon every principle of public policy and justice, they are punishable as traiterous attempts against the King's person or authority, and will, according to the particular nature of the traiterous attempt, fall within one or other of the specific treasons against the King, declared by the statute of 25 Edward III. this greatest of all treasons is sufficiently provided against by the law.

Gentlemen, I presume I hardly need give you this caution, that though it has been expresly declared, by the highest authority, that there do exist in this country men capable of meditating the destruction of the constitution under which we live; that declaration, being extrajudicial, is not a ground upon which you ought to proceed.

In consequence of that declaration it became a public and indispensable duty of His Majesty to institute this solemn proceeding, and to impose upon you the painful task of examining the accusations, which shall be brought before you; but it will be your duty to examine them in a regular judicial course, that is, by hearing the evidence, and forming your own judgment upon it.

And here, as I do not think it necessary to trouble you with observations upon the other branches of the statute 25 Edw. III. the charge to the Grand Inquest might conclude, had not the particular nature of the conspiracy, alledged to have been formed against the state, been disclosed, and made matter of public notoriety by the Reports of the two Houses of Parliament, now in every one's hands: but that being the case, I am apprehensive that I shall not be thought to have fulfilled the duty, which the Judge owes to the Grand Jury, when questions in the criminal law arise on new and extraordinary cases of fact; if I did not plainly and distinctly state what I conceive the law to be, or what doubts I conceive may arise in law, upon the facts which are likely to be laid before you, according to the different points of view in which those facts may appear to you.

It is matter of public notoriety that there have been Associations formed in this country, and in other parts of the kingdom, the professed purpose of which has been a change in the Constitution

tution of the Commons House of Parliament, and the obtaining of Annual Parliaments; and that to some of these Associations other purposes, hidden under this veil, purposes the most traiterous have been imputed; and that some of these Associations have been supposed to have actually adopted measures of such a nature, and to have gone into such excesses, as will amount to the crime of High Treason.

If there be ground to consider the professed purpose of any of these Associations, "a Reform in Parliament," as mere colour, and as a pretext held out in order to cover deeper designs—designs against the whole Constitution, and Government of the country; the case of those embarked in such designs is that, which I have already considered. Whether this be so, or not, is mere matter of fact; as to which I shall only remind you, that an inquiry into a charge of this nature, which undertakes to make out that the ostensible purpose is a mere veil, under which is concealed a traiterous conspiracy, requires cool and deliberate examination, and the most attentive consideration; and that the result should be perfectly clear and satisfactory. In the affairs of common life, no man is justified in imputing to another a meaning contrary to what he himself expresses, but upon the fullest evidence. On the other hand, where the charge can be made out, it is adding to the crime meditated the deepest dissimulation and treachery, with respect to those individuals, who may be drawn in to embark in the ostensible purpose, as well as to the public, against which this dark mystery of wickedness is fabricated.

But if we suppose these Associations to adhere to the professed purpose, and to have no other primary object; it may be asked, is it possible, and (if it be possible) by what process is it, "*that an Association for the Reform of Parliament can work itself up to the crime of High Treason?*" All men may, nay, all men must, if they possess the faculty of thinking, reason upon every thing which sufficiently interests them to become objects of their attention; and among the objects of the attention of free men, the principles of Government, the constitution of particular Governments, and, above all, the Constitution of the Government under which they live, will naturally engage attention, and provoke speculation. The power of communication of thoughts and opinions is the gift of God, and the freedom of it is the source of all science, the first fruits and the ultimate happiness of society; and therefore it seems to follow, that human laws ought not to interpose, nay cannot interpose, to prevent the communication of sentiments and opinions in voluntary assemblies of men; all which is true, with this single reservation, that *those Assemblies are to be so composed, and so conducted, as not to endanger the public*

peace

peace and good order of the Government under which they live; and I ſhall not ſtate to you that aſſociations and aſſemblies of men, for the purpoſe of obtaining a Reform in the interior Conſtitution of the Britiſh Parliament, are ſimply unlawful; but, on the other hand, I muſt ſtate to you, that they may but too eaſily degenerate, and become unlawful, in the higheſt degree, even to the enormous extent of the crime of High Treaſon.

The proceſs is very ſimple: Let us imagine to ourſelves this caſe: A few well-meaning men conceive that they and their fellow ſubjects labour under ſome grievance; they aſſemble peaceably to deliberate on the means of obtaining redreſs; the numbers increaſe; the diſcuſſion grows animated, eager, and violent; a raſh meaſure is propoſed, adopted, and acted upon; who can ſay where this ſhall ſtop, and that theſe men, who originally aſſembled peaceably, ſhall not finally, and ſuddenly too, involve themſelves in the crime of High Treaſon. It is apparent how eaſily an impetuous man may precipitate ſuch Aſſemblies into crimes of unforeſeen magnitude, and danger to the ſtate: but, let it be conſidered, that bad men may alſo find their way into ſuch Aſſemblies, and uſe the innocent purpoſes of their aſſociation as the ſtalking horſe to *their* purpoſes of a very different complexion. How eaſy for ſuch men to practiſe upon the credulity and the enthuſiaſm of honeſt men, lovers of their country, loyal to their prince, but eagerly bent upon ſome ſpeculative improvements in the frame, and internal mechaniſm of the Government? If we ſuppoſe bad men to have once gained an aſcendancy in an Aſſembly of this deſcription, popular in it's conſtitution, and having popular objects; how eaſy is it for ſuch men to plunge ſuch an aſſembly into the moſt criminal exceſſes? Thus far I am ſpeaking in general, merely to illuſtrate the propoſition, that men who aſſemble in order to procure a Reform of Parliament may involve themſelves in the guilt of High Treaſon.

The notoriety to which I have alluded leads me to ſuppoſe, that the "project of a Convention" of the people, to be aſſembled under the advice and direction of ſome of theſe ſocieties, or of delegations from them, will be the leading fact, which will be laid before you in evidence, reſpecting the conduct and meaſures of theſe Aſſociations; a project, which perhaps, in better times, would have been hardly thought worthy of grave conſideration; but, in theſe our days, having been attempted to be put in execution in a diſtant part of the united kingdoms, and, with the example of a neighbouring country before our eyes; is deſervedly become an object of the jealouſy of our laws: it will be your duty to examine the evidence on this head very carefully, and to ſift it to the bottom; to conſider every part of it in itſelf, and as it ſtands connected with other parts of it, and to draw the

 conclusion

conclusion of fact, as to the existence, the nature, and the object of this project of a Convention, from the whole.

In the course of the evidence you will probably hear of "bodies "of men having been collected together, of violent resolutions "voted at these and at other meetings, of some preparation of "offensive weapons, and of the adoption of the language, and "manner of proceeding of those Conventions in France, which "have possessed themselves of the government of that country:" I dwell not on these particulars, because I consider them, not as substantive Treasons, but as circumstances of evidence, tending to ascertain the true nature of the object, which these persons had in view, and also the true nature of this project of a Convention, and to be considered by you in the mass of that evidence; which evidence it does not fall within the province of the charge to consider in detail; my present duty is, to inform you what the law is upon the matter of fact, which in your judgment shall be the result of the evidence.

I presume that I have sufficiently explained to you, that *a project to bring the people together in convention in imitation of those National Conventions which we have heard of in France in order to usurp the government of the country*, and *any one step taken towards bringing it about*, such as for instance, "Consultations, forming "of committees to consider of the means, acting in those com-"mittees," would be a case of no difficulty that it would be the *clearest High Treason*; it would be compassing and imagining the King's death, and not only his death, but the death and destruction of all order, religion, laws, all property, all security for the lives and liberties of the king's subjects.

That which remains to be considered is, "the project of a "convention, having for its sole object the effecting a change in "the mode of representation of the people in Parliament, and "the obtaining that Parliaments should be held annually;" and here there is room to distinguish. Such a project of a Convention, taking it to be criminal, may be criminal in different degrees, according to the case in evidence, from whence you are to collect the true nature and extent of the plan, and the manner in which it is intended to operate; and it will become a question of great importance, under what class of crimes it ought to be ranged.

In determining upon the complexion and quality of this project of a Convention; you will lay down to yourselves one principle which is never to be departed from; *That alterations in the representation of the people in Parliament, or in the law for holding parliaments, can only be effected by the authority of the King, Lords, and Commons, in Parliament assembled.* This being taken as a foundation; it seems to follow as a necessary consequence, that "a project

"a project of a Convention, which ſhould have for its object "the obtaining a Parliamentary Reform without the authority "of Parliament, and ſteps taken upon it, would be *High Treaſon*, "in all the actors in it;" for this is a conſpiracy to overturn the Government. The Government cannot be ſaid to exiſt, if the functions of Legiſlation are uſurped for a moment; and it then becomes of little conſequence indeed, that the original conſpirators, perhaps, had only meditated a plan of moderate reform: it is, in the nature of things, that the power ſhould go out of their hands, and be beyond the reach of their controul. A conſpiracy of this nature is therefore, at beſt, a conſpiracy to overturn the Government, in order to new model it, which is, in effect, to introduce anarchy, and that which anarchy may chance to ſettle down into; after the King may have been brought to the ſcaffold, and after the country may have ſuffered all the miſeries which diſcord, and civil war, ſhall have produced.

Whether "the project of a Convention, having for its object "the collecting together a power, which ſhould overawe the "Legiſlative Body, and extort a Parliamentary Reform from "it," if acted upon, will alſo amount to *High Treaſon*, and to the ſpecific treaſon of compaſſing and imagining the King's death, is a more doubtful queſtion. Thus far is clear; a force upon the Parliament muſt be immediately directed againſt the King, who is an integral part of it; it muſt reach the King, or it can have no effect at all. Laws are enacted in Parliament by the King's Majeſty, by and with the advice of the Lords and Commons, in Parliament aſſembled. A force meditated againſt the Parliament, is therefore a force meditated againſt the King, and ſeems to fall within the caſe of a force meditated againſt the King, to compel him to alter the meaſures of his Government: but, in that caſe, it does not appear to me that I am warranted by the authorities to ſtate to you, as clear law, that the mere conſpiracy to raiſe ſuch a force, and the entering into conſultations reſpecting it, will alone, and without actually raiſing the force, conſtitute the crime of High Treaſon. What the law is in that caſe, and what will be the effect of the circumſtance of the force being meditated againſt the King *in Parliament*, againſt the King in the exerciſe of the royal function in a point, which is of the very eſſence of his monarchy, will be fit to be ſolemnly conſidered, and determined when the caſe ſhall ariſe.

It may be ſtated to you as clear, That "the project of a "Convention, having for its ſole object a dutiful and peaceable "application to the wiſdom of Parliament on the ſubject of a "wiſhed-for Reform, which application ſhould be entitled to "weight and credit from the univerſality of it, but ſhould ſtill "leave to the Parliament the freeſt exerciſe of its diſcretion to

"grant or to refuſe the prayer of the petition," (great as the reſponſibility will be on the perſons concerned in it, in reſpect of the many probable, and all the poſſible, bad conſequences of collecting a great number of people together; with no ſpecific legal powers to be exerciſed, and under no government but that of their own diſcretion;) "cannot in itſelf merit to be ranked "among that claſs of offences" which you are now aſſembled to hear and determine.

Upon this laſt ſtatement of the fact of the caſe, I am not called upon, and therefore it would not be proper for me to ſay more.

Gentlemen, You will now proceed upon the ſeveral articles of enquiry which have been given you in charge: If you find that the parties, who ſhall be accuſed before you, have been purſuing lawful ends by lawful means, or have been only indiſcreet, or, at the worſt, if criminal, that they have not been criminal to the extent of thoſe treaſons to which our enquiries are confined, then ſay, that the bills which ſhall be preſented to you *are not true Bills*: But, if any of the accuſed perſons ſhall appear to you to have been engaged in that traiterous and deteſtable conſpiracy deſcribed in the preamble of the late ſtatute; or, if without any formed deſign to go the whole length of that conſpiracy, they have yet acted upon the deſperate imagination of bringing about alterations in the Conſtitution of the Commons Houſe of Parliament, or in the manner of holding Parliaments without the authority of Parliament, and, in defiance of it, by an uſurped power, which ſhould, in that inſtance, ſuſpend the lawful authority of the King, Lords, and Commons, in Parliament aſſembled, and take upon itſelf the function of Legiſlation; (which imagination amounts to a conſpiracy to ſubvert the exiſting laws and Conſtitution, differing from the former only in the extent of its object,) *you will then do that which belongs to your office to do.*

In the third view of the caſe of the accuſed perſons; that is, if you find them involved in, and proceeding upon, a deſign to collect the people together againſt the legiſlative authority of the country, for the purpoſe, not of uſurping the functions of the Legiſlature, but of overawing the Parliament, and ſo compelling the King, Lords, and Commons, in Parliament aſſembled, to enact a law for new modelling the Commons Houſe of Parliament, or for holding annual Parliaments; and that charges of High Treaſon are offered to be maintained againſt them upon this ground only; perhaps it may be fitting that, *in reſpect of the extraordinary nature and dangerous extent, and very criminal complexion of ſuch a conſpiracy*, that caſe, which I ſtate to you as a new

 and

and a doubtful caſe, ſhould be put into a judicial courſe of enquiry, that it may receive "a ſolemn adjudication, whether it will, or will not, amount to *High Treaſon*," in order to which the bills muſt be found to be true bills.

Gentlemen, I have not opened to you the law of *Miſpriſon of Treaſon*, becauſe I am not aware that there are any commitments for that offence; and therefore I have no reaſon to ſuppoſe that there will be any proſecution for that offence. It conſiſts of *the concealment of treaſon committed by others*, (which undoubtedly it is every man's duty to diſcloſe, and the puniſhment is extremely ſevere; but the humanity of modern times hath uſually interpoſed, and I truſt, that the neceſſities of the preſent hour will not demand, that the law of Miſpriſion of Treaſon ſhould now be carried into execution.

Gentlemen, I diſmiſs you with confident expectation that your judgment will be directed to thoſe concluſions, which *may clear innocent men from all ſuſpicion of guilt, bring the guilty to condign puniſhment, preſerve the life of our Gracious Sovereign, ſecure the ſtability of our government, and maintain the public peace, in which comprehenſive term is included the welfare and happineſs of the people under the protection of the laws and liberties of the kingdom.*

The following is a copy of the INDICTMENT *againſt the* PRISONERS *accuſed of* HIGH TREASON.

MIDDLESEX to wit, be it remembered that at a ſpecial ſeſſion of Oyer and Terminer of our Sovereign Lord the King, of and for the county of Middleſex, holden at the Seſſion-Houſe on Clerkenwell Green in the ſaid county, on Thurſday the ſecond day of October, in the thirty-fourth year of the reign of our Sovereign Lord George the Third, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, and ſo forth; before the Right Honourable Sir James Eyre, Knight, Chief Juſtice of our ſaid Lord the King, of his Court of Common Pleas; the Right Honourable Sir Archibald Macdonald, Knight, Chief Baron of our ſaid Lord the King, of his Cou t of Exchequer; the Honourable Sir Beaumont Hotham, Knight, one of the Barons of our ſaid Lord the King, of his ſaid Court of Exchequer; the Honourable Sir Francis Buller, Baronet, one of the Juſtices of our ſaid Lord the King, of his ſaid Court of Common Pleas; the Honourable Sir Naſh Groſe, Knight, one of the Juſtices of our ſaid Lord the King, aſſigned to hold Pleas before the King himſelf; the Honourable Sir Soulden Lawrence, Knight, one other of the Juſtices of our

ſaid

said Lord the King, assigned to hold Pleas before the King himself, and others their fellows, Justices, and Commissioners of our said Lord the King, assigned by Letters Patent of our said Lord the King under his Great Seal of Great Britain, made to them and others, and any three or more of them (of whom one of them the aforesaid Sir James Eyre, Sir Archibald Macdonald, Sir Beaumont Hotham, Sir Francis Buller, Sir Nash Grose, and Sir Soulden Lawrence, our said Lord the King willed should be one) to inquire by the oath of good and lawful men of the County of Middlesex, of all high treasons, in compassing or imagining the death of our Lord the King, levying war against our Lord the King in his realm, or in adhering to the enemies of our said Lord the King in his realm, giving to them aid and comfort in his realm or elsewhere, and of all misprisions of such high treasons as aforesaid, or of any of them within the county aforesaid, (as well within liberties as without,) by whomsoever, and in what manner soever done, committed, or perpetrated, when, how, and after what manner, and of all other articles and circumstances concerning the premises, and every, or any of them, in any manner whatsoever, and the said treasons and misprisions of treasons according to the laws and customs of England for this time, to hear and determine by the oath of Benjamin Winthrop, Esquire, John Henry Schneider, Esquire, Edward Ironside, Esquire, Benjamin Kenton, Esquire, Rawson Hart Boddam, Esquire, John Aris, Esquire, William Pardoe Allet, Esquire, John Perry, Esquire, Henry Peter Kuff, Esquire, Thomas Winslow, Esquire, Thomas Cole, Esquire, Samuel Hawkins, Esquire, George Ward, Esquire, Thomas Boddam, Esquire, Joseph Lancaster, Esquire, Robert Wilkinson, Esquire, George Galway Mills, Esquire, Henry Wright, Esquire, John Hatchett, Esquire, Rowland Stephenson, Esquire, and John Campbell, Esquire, good and lawful men of the county aforesaid, now here sworn, and charged to inquire for our said Lord the King for the body of the said County touching and concerning the premisses in the said Letters Patent mentioned. It is presented in manner and form as followeth, (that is to say)

MIDDLESEX to Wit, THE JURORS for our Sovereign Lord the King, upon their oath present, That Thomas Hardy, late of Westminster, in the County of Middlesex, shoemaker, John Horne Tooke, late of Wimbleton, in the County of Surrey, clerk, John Augustus Bonney, late of the parish of Saint Giles in the Fields, in the county of Middlesex aforesaid, gentleman, Stewart Kyd, late of London, Esquire, Jeremiah Joyce, late of the parish of Saint Mary-le-Bone, otherwise Marybone, in the County of Middlesex aforesaid, gentleman, Thomas Wardle, late of London, gentleman, Thomas Holcroft, late of the parish

of

of Saint Mary-le-Bone, otherwise Marybone aforesaid, in the County of Middlesex aforesaid, gentleman, John Richter, late of Westminster, in the said County of Middlesex, gentleman, Matthew Moore, late of Westminster, in the County of Middlesex aforesaid, gentleman, John Thelwall, late of Westminster, in the County of Middlesex aforesaid, gentleman, Richard Hodgson, late of Westminster, in the County of Middlesex aforesaid, hatter, and John Baxter, late of the parish of Saint Leonard, Shoreditch, in the County of Middlesex aforesaid, labourer, being subjects of our said Lord the King, not having the fear of God in their hearts, nor weighing the duty of their allegiance, but being moved and seduced by the instigation of the devil, as false Traitors against our said Lord the King, their supreme, true, lawful, and undoubted Lord, and wholly withdrawing the cordial love and true and due obedience which every true and faithful subject of our said Lord the King should, and of right ought to bear towards our said Lord the King, and contriving, and with all their strength intending, traiterously to break and disturb the peace and common tranquility of this kingdom of Great Britain, and to stir, move, and excite insurrection, rebellion, and war, against our said Lord the King within this kingdom, and to subvert and alter the legislature, rule, and government, now duly and happily established in this kingdom, and to depose our said Lord the King from the royal state, title, power, and government of this kingdom, and to bring and put our said Lord the King to death, on the first day of March, in the thirty-third year of the reign of our Sovereign Lord the now King, and on divers other days and times, as well before as after, at the parish of St. Giles aforesaid, in the County of Middlesex aforesaid, maliciously and traiterously, with force and arms, &c. did amongst themselves and together, with divers other false traitors, whose names are to the said Jurors unknown, conspire, compass, imagine, and intend to stir up, move, and excite insurrection, rebellion, and war, against our said Lord the King, within the kingdom of Great Britain, and to subvert and alter the Legislature, Rule, and Government, now duly and happily established within this kingdom of Great Britain, and to depose our said Lord the King from the royal state, title, power, and Government of this kingdom, and to bring and put our said Lord the King to death.

AND TO FULFIL, perfect, and bring to effect their most evil and wicked treason, and treasonable compassings and imaginations aforesaid, they the said Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson, and John Baxter, as

such

ſuch falſe traitors as aforeſaid, with force and arms, on the ſaid firſt day of March, in the thirty-third year aforeſaid, and on divers other days and times, as well before as after, at the pariſh of Saint Giles aforeſaid, in the county of Middleſex aforeſaid, maliciouſly and traiterouſly did meet, conſpire, conſult, and agree among themſelves and together, with divers others falſe traitors, whoſe names are to the ſaid Jurors unknown, to cauſe and procure a Convention and Meeting of divers ſubjects of our ſaid Lord the King to be aſſembled and held within this kingdom, with intent and in order that the perſons to be aſſembled at ſuch Convention and Meeting ſhould and might wickedly and traiterouſly, without and in defiance of the authority and againſt the will of the Parliament of this kingdom, ſubvert and alter, and cauſe to be ſubverted and altered, the legiſlature, rule, and government, now duly and happily eſtabliſhed in this kingdom, and depoſe, and cauſe to be depoſed, our ſaid Lord the King, from the royal ſtate, title, power, and government thereof.

AND FURTHER TO FULFIL, perfect, and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings and imaginations aforeſaid, and in order the more readily and effectually to aſſemble ſuch Convention and Meeting as aforeſaid, for the traiterous purpoſes aforeſaid, and thereby to accompliſh the ſame purpoſes, they, the ſaid Thomas Hardy, John Horne Tooke, John Auguſtus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgſon, and John Baxter, as ſuch falſe traitors as aforeſaid, together with divers others falſe traitors whoſe names are to the Jurors aforeſaid unknown, on the ſaid firſt day of March, in the thirty-third year aforeſaid, and on divers others days and times, as well before as after, with force and arms, at the pariſh of Saint Giles aforeſaid, in the county of Middleſex aforeſaid, maliciouſly and traiterouſly did compoſe and write, and did then and there maliciouſly and traiterouſly cauſe to be compoſed and written divers books, pamphlets, letters, inſtructions, reſolutions, orders, declarations, addreſſes, and writings, and did then and there maliciouſly and traiterouſly publiſh, and did then and there maliciouſly and traiterouſly cauſe to be publiſhed divers other books, pamphlets, letters, inſtructions, reſolutions, orders, declarations, addreſſes and writings ſo reſpectively compoſed, written, publiſhed, and cauſed to be compoſed, written, and publiſhed, purporting and containing therein, among other things, incitements, encouragements, and exhortations, to move, induce, and perſuade the ſubjects of our ſaid Lord the King to chooſe, depute, and ſend, and cauſe to be choſen, deputed, and ſent, perſons as delegates to compoſe and conſtitute ſuch Convention and Meeting as aforeſaid,

ſaid, to be ſo holden as aforeſaid, for the traiterous purpoſes aforeſaid.

AND FURTHER TO FULFIL, perfect, and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings and imaginations aforeſaid, and in order the more readily and effectually to aſſemble ſuch Convention and Meeting as aforeſaid, for the traiterous purpoſes aforeſaid, and thereby to accompliſh the ſame purpoſes, they the ſaid Thomas Hardy, John Horne Tooke, John Auguſtus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgſon, and John Baxter, as ſuch falſe traitors as aforeſaid, on the ſaid firſt day of March, in the thirty-third year aforeſaid, and on divers other days and times, as well before as after, with force and arms, at the pariſh of Saint Giles aforeſaid, in the county of Middleſex aforeſaid, did meet, conſult, and deliberate among themſelves, and together with divers other falſe traitors whoſe names are to the ſaid Jurors unknown, of and concerning the calling and aſſembling ſuch Convention and Meeting as aforeſaid, for the traiterous purpoſes aforeſaid, and how, when, and where ſuch Convention and Meeting ſhould be aſſembled and held, and by what means the ſubjects of our ſaid Lord the King ſhould and might be induced and moved to ſend perſons as delegates to compoſe and conſtitute the ſame.

AND FURTHER TO FULFIL, perfect, and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings and imaginations aforeſaid, and in order the more readily and effectually to aſſemble ſuch Convention and Meeting as aforeſaid, for the traiterous purpoſes aforeſaid, and thereby to accompliſh the ſame purpoſes, they, the ſaid Thomas Hardy, John Horne Tooke, John Auguſtus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgſon, and John Baxter, as ſuch falſe traitors as aforeſaid, together with divers others falſe traitors whoſe names are to the Jurors aforeſaid unknown, on the firſt day of March, in the thirty-third year aforeſaid, and on divers other days and times, as well before as after, with force and arms, at the pariſh of Saint Giles aforeſaid, in the county of Middleſex aforeſaid, maliciouſly and traiterouſly did conſent and agree that the ſaid Jeremiah Joyce, John Auguſtus Bonney, John Horne Tooke, Thomas Wardle, Matthew Moore, John Thelwall, John Baxter, Richard Hodgſon, one John Lovett, one William Sharp, and one John Pearſon, ſhould meet, confer, and co-operate among themſelves, and together with divers other falſe traitors whoſe names are to the ſaid Jurors unknown, for and towards the calling and aſſembling ſuch Con-

 vention

vention and Meeting as aforesaid, for the traiterous purposes aforesaid.

AND FURTHER TO FULFIL, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they, the said Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson, and John Baxter, as such false traitors aforesaid, together with divers other false traitors whose names are to the Jurors aforesaid unknown, on the said first day of March, in the thirty-third year aforesaid, and on divers other days and times as well before as after, with force and arms, at the parish of Saint Giles aforesaid, in the county of Middlesex aforesaid, maliciously and traiterously did cause and procure to be made and provided, and did then and there maliciously and traiterously consent and agree to the making and providing of divers arms and offensive weapons, to wit, guns, musquets, pikes, and axes, for the purpose of arming divers subjects of our said Lord the King, in order and to the intent that the same subjects should and might unlawfully, forcibly, and traiterously oppose and withstand our said Lord the King in the due and lawful exercise of his royal power and authority in the execution of the laws and statutes of this realm, and should and might unlawfully, forcibly, and traiterously subvert and alter, and aid and assist in subverting and altering, without and in defiance of the authority and against the will of the Parliament of this kingdom, the Legislature, Rule, and Government now duly and happily established in this kingdom, and depose, and aid and assist in deposing our said Lord the King from the royal state, title, power, and government of this kingdom.

AND FURTHER TO FULFIL, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they, the said Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson, and John Baxter, as such false traitors as aforesaid, with force and arms, on the said first day of March, in the thirty-third year aforesaid, and on divers other days and times, as well before as after, at the parish of Saint Giles aforesaid, in the county of Middlesex aforesaid, maliciously and traiterously did meet, conspire, consult, and agree among themselves, and with divers other false traitors, whose names are to the said Jurors unknown, to raise, levy, and make Insurrection, Rebellion, and War within this kingdom of Great Britain, against our said Lord the King.

AND FURTHER TO FULFIL, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they, the said Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson, and John Baxter, as such false traitors as aforesaid, on the said first day of March, in the thirty-third year aforesaid, and on divers other days and times, as well before as after, at the parish of Saint Giles aforesaid, in the county of Middlesex aforesaid, with force and arms, maliciously and traiterously did meet, conspire, consult, and agree amongst themselves, and together with divers other false traitors, whose names are to the said Jurors unknown, unlawfully, wickedly, and traiterously to subvert and alter, and cause to be subverted and altered, the Legislature, Rule, and Government now duly and happily established in this kingdom, and to depose, and cause to be deposed, our said Lord the King from the royal state, title, power, and government of this kingdom.

AND FURTHER TO FULFIL, perfect, and bring to effect their most evil and wicked treason, and treasonable compassings and imaginations aforesaid, and in order the more readily and effectually to bring about such subversion, alteration, and deposition as last aforesaid, they, the said Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson, and John Baxter, as such false traitors as aforesaid, together with divers other false traitors, whose names are to the Jurors aforesaid unknown, on the said first day of March, in the thirty-third year aforesaid, and on divers other days and times, as well before as after, at the parish of Saint Giles aforesaid, in the county of Middlesex aforesaid, with force and arms, maliciously and traiterously did prepare and compose, and did then and there maliciously and traiterously cause and procure to be prepared and composed, divers books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses, and writings, and did then and there maliciously and traiterously publish and disperse, and did then and there maliciously and traiterously cause and procure to be published and dispersed divers other books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses, and writings, the said several books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses, and writings, so respectively prepared, composed, published, dispersed, and caused to be prepared, composed, published, and dispersed as last aforesaid, purporting and containing therein

 (amongst

(amongſt other things) incitements, encouragements, and exhortations, to move, induce, and perſuade the ſubjects of our ſaid Lord the King, to aid and aſſiſt in carrying into effect ſuch traiterous ſubverſion, alteration, and depoſition as laſt aforeſaid, and alſo containing therein, amongſt other things, information, inſtructions, and directions to the ſubjects of our ſaid Lord the King, how, when, and upon what occaſions the traiterous purpoſes laſt aforeſaid ſhould and might be carried into effect.

AND FURTHER TO FULFIL, perfect, and bring to effect, their moſt evil and wicked treaſon, and treaſonable compaſſings and imaginations aforeſaid, they, the ſaid Thomas Hardy, John Horne Tooke, John Auguſtus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgſon, and John Baxter, as ſuch falſe traitors as aforeſaid, together with divers other falſe traitors, whoſe names are to the Jurors aforeſaid unknown, on the ſaid firſt day of March, in the thirty-third year aforeſaid, and on divers other days and times, as well before as after, at the pariſh of St. Giles aforeſaid, in the county of Middleſex aforeſaid, with force and arms, maliciouſly and traiterouſly did procure and provide, and did then and there maliciouſly and traiterouſly cauſe and procure to be provided, and did then and there maliciouſly and traiterouſly conſent and agree to the procuring and providing arms and offenſive weapons (to wit) guns, muſquets, pikes, and axes, therewith to levy and wage war, inſurrection, and rebellion againſt our ſaid Lord the King within this kingdom, againſt the duty of the allegiance of them the ſaid Thomas Hardy, John Horne Tooke, John Auguſtus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgſon, and John Baxter, againſt the peace of our ſaid Lord the now King, his crown and dignity, and againſt the form of the ſtatute in that caſe made and provided.

SESSION-HOUSE, CLERKENWELL.—MONDAY, OCT. 6.

The Court met at ten o'clock, when the Grand Jury had not a Bill ready to return. About two o'clock the LORD CHIEF BARON appeared on the Bench, when a true Bill was returned against the following Persons for High Treason;

THOMAS HARDY,	THOMAS HOLCROFT,
JOHN HORNE TOOKE,	JOHN RICHTER,
JOHN AUGUSTUS BONNEY,	MATTHEW MOORE,
STEWART KYD,	JOHN THELWALL,
JEREMIAH JOYCE,	RICHARD HODGSON, and
THOMAS WARDLE,	JOHN BAXTER.

The Bill against JOHN LOVATT was not found.

The Jury thanked the Chief Justice for the Charge delivered to them the day on which the Commission opened, which, at their request, was ordered to be printed. The Judge thanked them in return for the Compliment. As he would not affect to say that he delivered it without Notes, he would chearfully acquiesce in their request. His Lordship observed, that the Jury had attended FOUR days, and wished to know if they should proceed any further that day? or if they meant to adjourn? After this conversation, they agreed to adjourn to next day at ten o'clock.

The *Attorney General* made the usual Motions, that Copies of the Indictments be given to the Prisoners.

The *Chief Justice* wished to know of the Attorney General, what time he would be in readiness to deliver to the Prisoners the Pannel of the Jury, &c. as ten days were required before the Trials could commence.

The *Attorney General* said, he should be able to answer, and settle the business next day.

The *Chief Justice* next called upon the persons who attended as Agents, Solicitors, and others for the Prisoners, and informed them, that by the usual application they may have access to the Prisoners. He said he would not harrass the Prisoners by having them brought up until their arraignment—to inform them of these particulars, for that Copies of their Indictments should be left with them, and wished this information might be immediately communicated.—And then the Court adjourned.

A LIST

A LIST *of the* WITNESSES SUBPŒNAED.

MIDDLESEX.

THE KING AGAINST THOMAS HARDY, JOHN HORNE TOOKE, JOHN AUGUSTUS BONNEY, STEWART KYD, JEREMIAH JOYCE, THOMAS WARDLE, THOMAS HOLCROFT, JOHN RICHTER, MATTHEW MOORE, JOHN THELWALL, RICHARD HODGSON, AND JOHN BAXTER.

Upon an Indictment for High Treason.

Alexander Aitchinson, ſtudent of medicine, reſiding in Cannongate, of Edinburgh, in the pariſh of Cannongate, in the county of Edinburgh, a priſoner in the Tolbooth of Edinburgh.

Henry Alexander, abiding at the Roſe-tavern, Fleet-market, in the City of London, Linen-draper.

Daniel Adams, of Took's-court, Curſitor ſtreet, in the county of Middleſex, gentleman.

George Allen, of Turner's-court, Bedford-Bury, in the county of Middleſex, one of the conſtables attending the Public-office in Bow-ſtreet, Covent-garden, in the ſaid county.

John Armſtrong, of Kingſland-road, in the pariſh of St. Leonard, Shoreditch, in the county of Middleſex, one of the conſtables attending the Police-office, in Worſhip-ſtreet, in the ſaid county.

James Agar, of Hare-court, in the Temple, barriſter at law.

Joſeph Butterworth, of Fleet-ſtreet, London, bookſeller.

John Bullock, of Church-yard-court, in the Inner-temple, London, ſtationer to the Board of Ordnance.

William Broomhead, of Watſon's-walk, Sheffield, in the county of York, cutler and ſciſſar finiſher, now in cuſtody at the houſe of Mrs. Mary Parkinſon, in Little Charles-ſtreet, Weſtminſter, in the county of Middleſex.

Grant Broughton, one of his Majeſty's meſſengers in ordinary, abiding at the houſe of the Right Honourable the Marquis of Saliſbury, in Arlington ſtreet, in the county of Middleſex.

Bernard Bayley, of Union-creſcent, Kent-road, in the county of Surry, gentleman, one of the clerks of the Police-office, in Lambeth-ſtreet, Whitechapel, in the county of Middleſex.

Joſeph Burchell, of the Sheriff's-office, in Took's-court, and reſiding in great James-ſtreet, Bedford-row, in the county of Middleſex, attorney at law.

George Cheek Barnes, of Noble-ſtreet, Goſwel-ſtreet, in the county of Middleſex, printer.

John Boult, of Red-lion-court, Charter-houſe-lane, London, newſman and ticket porter.

Thomas Blackburne, of Craven-ſtreet, City-road, in the county of Middleſex, paper hanger and undertaker.

William

William Black, of York-ſtreet, Weſtminſter, in the county of Middleſex, green-grocer, and one of the conſtables attending the Public-office in Bow-ſtreet, Covent-garden, in the ſaid county.

Robert Bereſford, reſiding at the corner of Bennet's-court, Drury-lane, in the county of Middleſex, taylor and green-grocer, and one of the conſtables attending the Public-office in Bow-ſtreet, Covent-garden, in the ſaid county.

Arthur Blake, of Devonſhire-ſtreet, Portland-place, in the county of Middleſex, eſq.

Richard Bennet, of Redman's-row, Bethnal-green, in the county of Middleſex, warehouſeman.

William Barclay, of Duke's-court, St. Martin's-lane, in the county of Middleſex, ſhoemaker.

Nathaniel Birch, of Vine-ſtreet, in the pariſh of St. John, Weſtminſter, in the county of Middleſex, labourer, one of the patroles attending the Public-office in Bow-ſtreet, Covent-garden, in the ſaid county.

Anthony Beck, of Oxford-ſtreet, in the county of Middleſex, ſadler.

John Burſey, of Blackman-ſtreet, in the Borough of Southwark, in the county of Surrey, one of the clerks in the Auditor's-office, Somerſet-place.

John Bone, of Weſton-ſtreet, Snow's-fields, Southwark, in the county of Surry, muſlin clearer.

William Camage, of Fargate-ſtreet, Sheffield, in the county of York, inkbottle maker, now in cuſtody at the houſe of Mrs. Mary Parkinſon, in Little Charles-ſtreet, Weſtminſter, in the county of Middleſex.

John Child, of Crown-ſtreet, Weſtminſter, in the county of Middleſex, one of his Majeſty's meſſengers in ordinary.

John Coates, a ſoldier, in the Birmingham Volunteers, late of China-walk, Lambeth, in the county of Surry, apprentice to John Philip Francklow, taylor, and now reſiding with his father, Chriſtopher Coates, of Little College-ſtreet, Weſtminſter, in the county of Middleſex.

Stephen Cottrell, of Groſvenor-place, in the county of Middleſex, eſq. one of the clerks of his Majeſty's moſt Hon. Privy Council.

William Carter, of Angel-alley, Long-acre, in the county of Middleſex, bill ſticker.

Patrick Colquhoun, of Charles-ſquare, Hoxton, in the county of Middleſex, eſq. one of the Juſtices of the Police-office, in Worſhip-ſtreet, Shoreditch, in the ſaid county.

Thomas Chapman, of Fleet-ſtreet, London, bookſeller.

John Combes, of Oakham, in the county of Rutland, attorney at law.

Chriſtopher Cridland, of Kemp's-court, Berwick-ſtreet, Soho, in the county of Middleſex, ſhoemaker, and one of the conſtables attending the Public-office in Bow-ſtreet, Covent-garden, in the ſaid county.

Thomas

Thomas Carpmeal, of Bow-ſtreet, Covent-garden, in the county of Middleſex, victualler, and one of the conſtables attending the Public-office in Bow-ſtreet, aforeſaid.

Henry Croker, of Tottenham court-road, in the county of Middleſex, broker, and one of the conſtables attending the Public-office in Bow-ſtreet, Covent-garden, in the ſaid county.

John Chapman, of Dean-ſtreet, Fetter-lane, London, labourer.

Alexander Corney, of Red-lion-court, Watling-ſtreet, in the city of London, ſhoe-factor.

James Clark, eſq. ſheriff deputy, of the county of Edinburgh, reſiding in George-ſquare, in the pariſh of St. Cuthbert's in the ſaid county.

John Chatfield, of Back-hill, Hatton-garden, in the county of Middleſex, timber merchant.

Bernard Cobbe, of Walnut-tree-walk, Lambeth, in the county of Surry, one of the clerks in the Auditor's office, Somerſet-place.

William Clarke, of Mount-row, Lambeth, in the county of Surry, meſſenger to the ſolicitor for the affairs of his Majeſty's treaſury.

Henry Dealtry, of Eſſex-ſtreet, in the county of Middleſex, clerk of the rules, on the crown ſide of his Majeſty's court of King's bench.

Richard Daviſon, of Sheffield, in the county of York, printer.

James Daviſon, of Ruſſel-place, Ruſſel-ſtreet, Covent-garden, in the county of Middleſex, printer.

William Dakin, of Downing-ſtreet, Weſtminſter, door porter at the office of Lord Grenville, one of his Majeſty's principal ſecretaries of ſtate, ſituate in Downing-ſtreet aforeſaid.

Joſeph Deboſſe, of Gerard-ſtreet, Soho, in the county of Middleſex, bookſeller.

Joſeph Edwards, the younger, of Jewin-ſtreet, London, ſilver-ſmith, now in cuſtody at the houſe of William Needham, in Cork-ſtreet, Hanover-ſquare, in the county of Middleſex, one of his Majeſty's meſſengers in ordinary.

Daniel Iſaac Eaton, of Newgate-ſtreet, London, bookſeller.

Henry Eaton, of Newgate-ſtreet, London, the ſon of Daniel Iſaac Eaton, of the ſame place, bookſeller.

Evan Evans, late a priſoner in the cuſtody of the Marſhal of the Marſhalſea, of the Court of King's-bench, grocer, now reſiding at the houſe of Samuel Giles, at Newington-cauſeway, in the county of Surry.

Ann, the wife of the above-named Evan Evans, now reſiding at the houſe of Samuel Giles, at Newington-cauſeway, in the county of Surry.

Samuel Edwards, of Beaufort-buildings, in the Strand, in the county of Middleſex, wine-merchant.

John Froſt, late of Spring-garden, Weſtminſter, but now of Pinner, in the county of Middleſex, gentleman, late an attorney of the court of King's-bench.

Richard

Richard Ford, of Sloan-ſtreet, in the county of Middleſex, eſq. one of the Juſtices at the Public-office in Bow-ſtreet, Covent-garden, in the ſaid county.

William Fawkener, of South-ſtreet, Park-lane, in the pariſh of St. George, Hanover-ſquare, in the county of Middleſex, eſq. one of the clerks of his Majeſty's moſt Hon. Privy-council.

Edward Fugion, of the Pleaſant-retreat, Palmer's-village, Tothill-fields, in the county of Middleſex, ſhoemaker, and one of the officers of the Public-office in Bow-ſtreet, Covent-garden, in the ſaid county.

William Henry Falloſield, of Inner-Scotland-yard, in the county of Middleſex, attorney at law.

William Fitzgerald, of the Middle-temple, London, barriſter at law.

John Fairley, of Broughton, in the pariſh of St. Cuthbert's, in the county of Edinburgh, wright, a priſoner in the Caſtle of Edinburgh.

Iſaac Fawcett, the younger, of Camomile-ſtreet, Biſhopſgate-ſtreet, in the city of London, attorney at law.

Thomas Furmage, of Windmill-ſtreet, Tottenham-court-road, in the county of Middleſex, collector of the rate for paving, &c. within the pariſh of Saint Pancras, in the ſaid county.

William Fletcher, of Lincoln's-Inn, in the county of Middleſex, barriſter at law.

Duncan Grant, of Strutton-ground, Weſtminſter, in the county of Middleſex, one of the conſtables attending the Public-office in Bow-ſtreet, Covent-garden, in the ſaid county.

Edward Goſling, late of Hoxton, in the pariſh of Saint Leonard, Shoreditch, in the county of Middleſex, but now reſiding at the houſe of James Biſſet, Upper-broker-row, Moorfields, in the ſaid county, and clerk to William Wickham, eſq. one of the Juſtices at the Police-office in Lambeth-ſtreet, Whitechapel, in the ſaid county.

John Gurnell, of King-ſtreet, Weſtminſter, in the county of Middleſex, one of his Majeſty's meſſengers in ordinary.

Richard Gay, of Hopkins-ſtreet, Saint James's, in the county of Middleſex, drug and perfume grinder, a priſoner in the cuſtody of the Marſhal of the Marſhalſea, of the court of King's-bench, in the King's-bench-priſon, in Saint George's-Fields, in the county of Surry.

Thomas Green, of Orange-ſtreet, Leiceſter-fields, in the county of Middleſex, perfumer.

John Gurney, of Eſſex-court, in the Middle-temple, barriſter at law.

Alexander Grant, of Wardour-ſtreet, Soho, in the county of Middleſex, printer.

William Gotobed, of Hoſier-lane, Weſt-ſmithfield, London, newſman.

Roger Gaſtrell, of Hemlock-court, Cary-ſtreet, in the county of Middleſex, taylor, and green-grocer, and one of the conſtables

 attending

attending the Public-office in Bow-ſtreet, Covent-garden, in the ſaid county.

Arthur Gliddon, of Great Ormond-ſtreet, Queen's-ſquare, in the county of Middleſex, attorney at law.

John Griffiths, of Plumber's-row, Mile end-old-town, in the county of Middleſex, carpenter and joiner, and one of the conſtables attending the Police-office in Lambeth-ſtreet, Whitechapel, in the ſaid county.

Thomas Griffiths, of Faſhion-ſtreet, Spitalfields, ſawyer, and aſſiſtant conſtable at the Police-office in Lambeth-ſtreet, Whitechapel, in the county of Middleſex.

Thomas Glegg, No. 60, Charing-croſs, Weſtminſter, in the county of Middleſex, gentleman, clerk to Mr. White, of No. 6, Lincoln's-inn.

John Growes, of Crown-court, Ruſſel-ſtreet, Covent-garden, in the county of Middleſex, gentleman.

Richard Hayward, of Friendly-place, Shoreditch, in the county of Middleſex, wax-chandler, now a priſoner in his Majeſty's gaol of Newgate.

George Higgins, of South-ſtreet, in the pariſh of Saint George, Hanover-ſquare, in the county of Middleſex, one of his Majeſty's meſſengers in ordinary.

Chriſtopher Hull, of Chancery-lane, attorney at law.

Edward Hodſon, of Bell-yard, near Temple-bar, printer.

Henry Hill, of Fargate-ſtreet, in Sheffield, in the county of York, cutler, now in cuſtody at the houſe of Mrs. Mary Parkinſon, in Little Charles-ſtreet, Weſtminſter, in the county of Middleſex.

John Hancock, of Chicheſter-rents, in Chancery-lane, in the county of Middleſex, gentleman, clerk to Mr. White, of No. 6, Lincoln's-Inn.

William Huſkiſſon, of Pall-mall, in the county of Middleſex, eſq. chief clerk in the office of the Rt. Hon. Henry Dundas, one of his Majeſty's principal ſecretaries of ſtate.

Edward Harvey, of Lamb-ſtreet, Spital-ſquare, in the county of Middleſex, warehouſeman.

John Hollingworth, of Threadneedle-ſtreet, London, banker.

John Hillier, of Biſhopſgate-ſtreet, London, bookſeller, now a priſoner in his Majeſty's gaol of Newgate.

Jeremiah Samuel Jordan, of Fleet-ſtreet, in the city of London, bookſeller.

Joſeph Johnſon, of St. Paul's Church-yard, in the city of London, bookſeller.

Joſeph Clayton Jennings, of Hart-ſtreet, Bloomſbury, in the county of Middleſex, barriſter at law.

Charles Jealous, of Brownlow-ſtreet, Drury-lane, in the county of Middleſex, ſadler, and one of the conſtables attending the Public-office in Bow-ſtreet, Covent-garden, in the ſaid county.

Joſhua Joyce, of Eſſex-ſtreet, in the Strand, in the county of Middleſex, tallow-chandler.

Thomas Jones, of Milford-lane, in the Strand, in the county of Mid-

Middlesex, labourer and one of the constables attending the Public-office in Bow-street, Covent-garden, in the said county.

William Jones, esq. of St. George's-fields, in the county of Surrey, marshal of the Marshalsea, of the court of King's-bench.

David George Jaemar, of Frith-street, Soho, in the county of Middlesex, one of the clerks in the Auditor's-office, in Somerset-place.

William Johnson, of the Inner-temple, London, attorney at law.

John King, of Queen-street, Queen's square, Westminster, in the county of Middlesex, esq. one of his majesty's under secretaries of state.

John Kirby, keeper of his Majesty's gaol of Newgate, residing there.

Christopher Kennedy, of Cross-court, Broad-court, Long-acere, in the county of Middlesex, carpenter, and one of the constables attending the Public-office in Bow-street, Covent-garden, in the said county.

William Knight, of Windmill-street, Piccadilly, in the county of Middlesex, shoemaker.

David Kinghorn, gentleman, gaoler of his Majesty's Tower of London, abiding there.

William Lowndes, of the Middle-temple, London, barrister at law.

Edward Lauzun, of Little George-street, Westminster, in the county of Middlesex, one of his Majesty's messengers extraordinary.

James Lyon, messenger at arms, residing at the house of James Cooper, in Advocate's-close, in the city of Edinburgh.

George Lynam, of Walbrook, London, ironmonger.

Edward Lavender, of Drury-lane, in the county of Middlesex, attorney at law, and chief clerk of the Public-office in Bow-street, Covent-garden, in the said county.

Arnold Langley, of Gloucester-street, Queen's-square, in the county of Middlesex, gentleman, clerk to Mr. White, No. 6, Lincoln's-inn.

William Lockhart, sheriff clerk depute of the county of Edinburgh, residing at Newhaven, in the parish of St. Cuthbert's, in the county of Edinburgh aforesaid.

David Lloyd, of York-street, Westminster, in the county of Middlesex, footman to Mrs. Campbell, of Bury-street, St. James's, in the same county.

Robert Moody, of China-square, Sheffield, in the county of York, carpenter and joiner, now in custody at the house of Mrs. Mary Parkinson, in Little Charles-street, Westminster, in the county of Middlesex.

Thomas Maclean, of Whitehall, in the county of Middlesex, one of his Majesty's messengers in ordinary.

John Moore, of Gray's-inn, in the county of Middlesex, attorney at law.

—— *Merry*, of Ramsgate, in the county of Kent, doctor of physic.

William Mainwaring, of Hanover-ſquare, in the county of Middleſex, eſq; one of the prothonotaries of the court of common-pleas.

George Munro, of George-ſtreet, Mancheſter-ſquare, in the county of Middleſex, eſq. a captain in the army.

William Metcalfe, of Dowgate-hill, in the city of London, attorney at law.

Patrick Macmanus, of Stanhope-ſtreet, Clare-market, in the county of Middleſex, hatter, and one of the conſtables attending the Public-office in Bow-ſtreet, Covent-garden, in the ſaid county.

Andrew Milne, of Great Ruſſel-ſtreet, Bloomſbury, in the county of Middleſex, ſhopman to Mr. Jordan, bookſeller, in Fleet-ſtreet, London.

Joſeph Mack, clerk in the Sheriff-clerk's office in Edinburgh, reſiding in Caſtle Wynd, in the city of Edinburgh.

William M'Cubbin, writer, reſiding in the houſe of John Donaldſon, ſmith and room-ſetter, in Todderick's Wynd, in the city of Edinburgh.

Alexander Mitchell, linen-manufacturer, reſiding at Strathaven, in the pariſh of Strathaven, in the county of Lanark.

Arthur M'Ewan, of the Water of Leith, in the pariſh of Saint Cuthbert's, in the county of Edinburgh, weaver, a priſoner in the Tolbooth of Cannongate, of Edinburgh.

Walter Miller, wright and merchant, of the High-ſtreet of Perth, in the pariſh of Perth, in the county of Perth, a priſoner in the Tolbooth of Edinburgh.

John Miller, of Duke's-court, Bow-ſtreet, Covent-garden, in the county of Middleſex, one of the conſtables attending the Public-office in Bow-ſtreet aforeſaid.

Stephen Henry Murrell, of Ray-ſtreet, Cold-bath-fields, in the county of Middleſex, auctioneer.

William Middleton, one of the Sheriff's officers of the county of Edinburgh, reſiding in Warriſton's-cloſe, in the city of Edinburgh.

Joſeph Milner, of Aldermanbury, London, warehouſeman.

William Needham, of Cork-ſtreet, in the pariſh of St. George, Hanover-ſquare, in the county of Middleſex, one of his Majeſty's meſſengers in ordinary.

Frederick Polydore Nodder, of Brewer-ſtreet, Golden-ſquare, in the county of Middleſex, botanic painter.

John Noſt, reſiding at the Lord Chamberlain's-office, in St. James's-palace, in the county of Middleſex, one of his Majeſty's meſſengers extraordinary.

Evan Nepean, of Scotland-yard, Whitehall, in the county of Middleſex, eſq. one of his Majeſty's under ſecretaries of State.

Randle Norris, of Hare-court, in the Temple, clerk to Mr. Spinks, under treaſurer of the ſociety of the Inner-temple.

Arthur Onſlow, of Craven-ſtreet, in the Strand, in the county of Middleſex, barriſter at law.

Robert Orrock, of Dean, in the pariſh of St. Cuthbert's in the

county

county of Edinburgh, blacksmith, a prisoner in the castle of Edinburgh.

George Orr, of Camberwell, in the county of Surry, taylor.

Jane Partridge, of Nottingham, spinster, the daughter of Mr. Partridge, of Nottingham, aforesaid, apothecary.

William Pope, of Little Mary-le-bone-street, in the county of Middlesex, blacking ball maker, and one of the patroles attending the Public-office in Bow-street, Covent-garden, in the said county.

John Pearson, of Lincoln's-inn, in the county of Middlesex, student at law.

James Parkinson, of Hoxton-square, in the county of Middlesex, surgeon and apothecary.

John Pearson, of Fig-tree-court, in the Temple, gentleman.

William Ross, of Crown-street, Westminster, in the county of Middlesex, one of his Majesty's messengers in ordinary.

John Reeves, of Cecil-street, in the Strand, in the county of Middlesex, barrister at law.

George Ross, clerk, or late clerk in the Gazetteer-office at Edinburgh, of South-bridge, of Edinburgh, a prisoner in the Tolbooth of Edinburgh.

Archibald Ruthven, of Rodney-row, Newington-butts, in the county of Surry, baker, one of the patroles attending the Public-office in Bow-street, Covent-garden, in the county of Middlesex.

James Ridgway, of York-street, St. James's-square, in the county of Middlesex, bookseller, now a prisoner in his Majesty's gaol of Newgate.

Thomas Clio Rickman, of Upper Mary-le-bone street, in the county of Middlesex, bookseller, and Jane his wife, of the same place.

Samuel Reece, of Carthusian-street, Charter-house-square, in the county of Middlesex, stationer.

Isaac Saint, of the city of Norwich, victualler, now in custody at the house of Thomas Wagstaffe, in South-street, in the parish of St. George, Hanover-square, in the county of Middlesex, one of his Majesty's messengers in ordinary.

John Thomas Slack, of Buckle-street, Goodman's-fields, Whitechapel, in the county of Middlesex, staymaker.

Henry Delahay Symonds, of Paternoster-row, London, bookseller, now a prisoner in his Majesty's gaol of Newgate.

William Sharp, of Charles-street, Middlesex-hospital, in the county of Middlesex, engraver.

John Schaw, of Eaton-street, Pimlico, in the county of Middlesex, one of his Majesty's messengers in ordinary.

Thomas Symonds, of Crown-office-row, Inner-temple, London, student at law.

Mathew Swift, of Gould's-buildings, near the New Church in the Strand, in the county of Middlesex, shoemaker, and one of the constables attending the Police-office in Great Marlborough-street, in the said county.

George Sanderson, of the bunch of grapes, in Butcher-row, Temple-bar, in the county of Middlesex, victualler.

Isaac

Isaac Clayton Smith, of Artichoke-yard, Lambeth-marsh, in the county of Surrey, messenger in the office of the Rt. Hon. Henry Dundas, one of his Majesty's principal secretaries of state.

Thomas Shelton, of the session-house in the Old-bailey, in the Suburbs of the City of London, attorney at law.

William Scot, solicitor at law, residing in Merchant-street, in the city of Edinburgh

Daniel Stuart, of Frith-street, Soho, in the county of Middlesex, gentleman.

Thomas Stiff, of Paternoster-row, in the city of London, hairdresser.

John Shallard, of Charlton-street, Somers-town, in the county of Middlesex, pastry-cook, and one of the patroles attending the Public-office in Bow-street, Covent-garden, in the said county.

John Shelmerdine, of the Grove, Southwark, in the county of Surry, hatter.

James Savage, of Maiden lane, Wood-street, London, warehouseman.

William Sturch, of Stanhope-street, Clare-market, in the county of Middlesex, ironmonger.

John Taylor, of Fleet-street, London, gent. now a prisoner in his Majesty's gaol of Newgate.

William Tims, of Crown-street, Westminster, in the county of Middlesex, one of his Majesty's messengers in ordinary.

James Thornton, of Weymouth-street, Cavendish square, in the county of Middlesex, clerk at the Police-office in Great Marlborough-street, in the said county.

Thomas Thomson, of Shrub's-hill, near Bagshot, in the county of Berks, esq.

Thomas Tourle, late a prisoner in the custody of the Marshal of the Marshalsea, of the court of King's bench, dealer in timber and coals, now residing at the house of Samuel Giles, at Newington-causeway, in the county of Surry.

Joseph Towers, of St. John's square, Clerkenwell, in the county of Middlesex, dissenting minister.

James Templeton, messenger at arms, residing in President's stairs, in Parliament-close, in the city of Edinburgh.

John Thompson, of Oakham, in the county of Rutland, gardener.

Mary Thompson, the wife of John Thompson, of Oakham, in the county of Rutland, gardener.

Mary Thompson, the wife of George Thompson, of Oakham, in the county of Rutland, gardener.

John Townsend, of Duke's-row, Pimlico, in the county of Middlesex, labourer, and one of the constables attending the Public-office in Bow-street, Covent-garden, in the said county.

Thomas Ting, of King's-road, Chelsea, in the county of Middlesex, stage-coachman, and one of the patroles attending the Public-office in Bow-street, Covent-garden, in the said county.

John Taylor, of St. George's, Norwich, surgeon.

John Thompson, near the turnpike, in the New-road, St. George's

in

in the East, in the county of Middlesex, assistant clerk at the Public-office in Lambeth-street, Whitechapel, in the said county.

John Taplin, of Mulberry-street, Mile-end Old-town, in the county of Middlesex, gardener, one of the constables attending the Police-office in Lambeth-street, Whitechapel, in the said county.

William Taylor, of Bridge-street, Westminster, in the county of Middlesex, esq. one of the clerks in the office of the Rt. Hon. Lord Grenville, one of his Majesty's principal secretaries of state.

Felix Vaughan, of Crown-office-row, Inner-temple, London, barrister at law.

John Vellam, of Oakham, in the county of Rutland, butcher and grazier.

Thomas John Upton, of Bell-yard, near Temple bar, watchmaker and machinist, now a prisoner in the New Prison, Clerkenwell, in the county of Middlesex.

Alexander Willis, of Harley-street, in the county of Middlesex, dancing-master.

Samuel Williams, now in custody at the house of Mr. Fordham, in Lambeth-street, Whitechapel, in the county of Middlesex, coach-master, apprentice to and late abiding with Joseph Whitton, at Tower-stairs, Tower-dock, London, gun engraver.

John Williams, of Leicester fields, in the county of Middlesex, wine-merchant.

George Williams, of West-smithfield, London, leather-seller.

Thomas Wagstaffe, of South-street, in the parish of St. George, Hanover-square, in the county of Middlesex, one of his Majesty's messengers in ordinary.

William Wickham, of St. James's-place, in the county of Middlesex, esq. one of the justices of the Police-office in Lambeth-street, Whitechapel, in the said county.

John Wharton, of Skelton-castle, in the county of York, esq.

Joseph White, of Essex-court, Middle-temple, and of Lincoln's-inn, in the county of Middlesex, attorney at law, and solicitor for the affairs of his Majesty's treasury.

William Walker, of Buckingham-street, in the Strand, in the county of Middlesex, attorney at law.

James Walsh, late of the Strand, in the county of Middlesex, but now abiding at Hatfield, in the county of Hertford, gent.

William Woodfall, of Salisbury-square, Fleet-street, London, printer.

Henry Sampson Woodfall, late of No. 1, the corner of Ivey-lane, Paternoster-row, printer, but now of Chelsea, in the county of Middlesex, gent.

George Williamson, messenger at arms, residing in President-stairs, in Parliament-close, in the city of Edinburgh.

John Watts, of Rosemary-lane, Whitechapel, in the county of Middlesex, dyer.

Thomas Whitehorn, abiding at the house of Mr. John King, in Cumberland-street, Tottenham-court-road, in the county of Middlesex,

ſex, and ſhopman to Mr. Baxter, near Cecil-ſtreet, in the Strand, in the ſaid county, bookſeller.

George Widdiſon, of Fargate-ſtreet, Sheffield, in the county of York, hair-dreſſer, now in cuſtody at the houſe of Mrs. Mary Parkinſon, in Little Charles-ſtreet, Weſtminſter, in the county of Middleſex.

Thomas Wiſſin, of Fludyer-ſtreet, Weſtminſter, in the county of Middleſex, one of his Majeſty's meſſengers in ordinary.

Thomas Wood, of Red-lion-ſtreet, Holborn, in the pariſh of St. George the Martyr, in the county of Middleſex, lottery-inſpector.

William Worſhip, of Ball-alley, Lombard-ſtreet, London, engraver.

Richard Williams, of Oakham, in the county of Rutland, clerk.

Richard White, of Piccadilly, in the pariſh of St. James, Weſtminſter, in the county of Middleſex, oilman.

George Willington, of the Inner-temple, London, attorney at law.

John Wigglesworth, of Somerſet-place, in the county of Middleſex, eſq. one of the inſpectors general of accounts in the Auditor's office there.

John York, of his Majeſty's Tower of London, and deputy lieutenant thereof.

Matthew Yatman, of Percy-ſtreet, Rathbone-place, in the county of Middleſex, apothecary.

The following is a LIST *of the* PETTY JURORS *ſummoned.*

Acton. Thomas Buck, eſq.

Back-lane. John Warner, gent.

Baker-ſtreet, Portman-ſquare. Thomas Skipp, Dyott Bucknell, eſq.

Barnet. Benjamin Bradbury, Fryer's-lane, Fryer's-barnet, gent.

Bedford-ſquare. Joſeph Shrimpton, eſq.

Bethnal-green. Joſiah Boydell, gent.

Bow. Thomas Sayer, eſq. and diſtiller; Edward Gordon, eſq. and brewer; Mark Hudſon, eſq. and brewer.

Brentford. Hugh Ronalds, eſq. and nurſery-man; David Roberts, diſtiller.

Broad-ſtreet, St. George's in the *Eaſt.* JoſephA inſlie, coal-merchant.

Bromley. Nathaniel Stonard, brewer; Charles Smith, diſtiller; Chriſtopher Metcalf, eſq. and diſtiller.

Brompton. Thomas Hammerſly, eſq. and banker; Hanbury Potter, Old Brompton, eſq.

Buckingham ſtreet. Archibald Paxton, wine-merchant.

Bur-ſtreet, Eaſt-ſmithfield. Thomas Allen, brewer; Rice Davies, eſq.

Chancery-lane. Richard Maſters, eſq. and banker; Thomas Druce, ſtationer.

Charing-croſs. Charles Fourdrinier, ſtationer; James Shepnell, ſilverſmith.

Charlotte ſteeet, Rathbone place. Edward Campion, eſq. and wine-merchant; Iſaac Mark, gent.

Charterhouſe-ſquare. Lacy Primatt, eſq. and chemiſt.

Cheny-ſtreet, Bedford-ſquare. John Peavey, cooper.

Chiſwick. Thomas Laurence, Strand on the Green, eſq. John Thompſon, brewer; Thomas Beach, Strand on the Green, eſq.

Clerkenwell. Apſley Pellatt, St. John's-ſtreet, ironmonger; John Gueſt, ditto, eſq. and potter; George Fillingham, ditto, hopfactor; David Dean, ditto, cheeſemonger; John Wright, Red Lion-ſtreet, watch caſe-maker.

Cockſpur-ſtreet. James Oliphant, batter; James Crompton, paper-hanging-maker.

Colnbrook. Henry Bullock, this ſide of Colnbrook, eſq.

Dalton. Cecil Pitt, eſq.

Downing-ſtreet, Weſtminſter. Thomas Maude, eſq. and army agent.

Duke-ſtreet, Weſtminſter. Calvert Clapham, gent.

Ealing. Thomas Wood, Hanging-hill, eſq. and coal-merchant; Richard Meux, eſq. and brewer; Robert Winn, Lower-ſide, eſq. Richard Hunt, Windmill-lane, eſq. Sampſon Bowles, eſq. and haberdaſher; John Baker, eſq. James Smith, eſq. and perfumer; Robert Vincent, eſq. Thomas Smith, Upper-ſide, eſq. and diſtiller; Edward Roberts, eſq. Thomas Cheap, eſq.

Edgware. Thomas Cockington, gent.

Edmonton. Daniel Goſſett, eſq. and broker; John Blackburn, eſq. and merchant; Thomas Lewis, South-ſtreet, eſq. and Iriſh-factor.

Elſtree. Samuel Rudge, eſq. John Rudge, eſq.

Enfield. Matthias Dupont, of the Chace-ſide, gent. wine and brandy-merchant; George Capes, eſq. and warehouſeman; Richard Gough, Forty-hill, eſq. William Emerſon, Buſh-hill, eſq. John Horſley, Bull's-croſs, eſq. Henry Purrier, Chace-ſide, eſq. George Ellward, ditto, eſq. and upholder; Chriſtopher Strothoff, Bull's-croſs, eſq. and merchant.

Finchley. Thomas Allen, Eaſt-end, eſq. William Hamerton, eſq. Thomas Gildart, Nether-ſtreet, eſq. and merchant.

Frith-ſtreet, Soho. Alexander Trotter, eſq. and upholder.

Fulham. Robert Lewis, North-end, eſq. John James, eſq.

Goodman's-fields. Major Rhode, Lemon-ſtreet, eſq. and ſugar-baker.

Goſwell-ſtreet. Robert Hawkins, coal-merchant.

Gray's-inn-lane. Thomas Harriſon, cowkeeper.

Great George-ſtreet, Weſtminſter. Francis Jenks, gent.

Greek-ſtreet. Joſiah Wedgwood, potter.

Green-ſtreet, Groſvenor-ſquare. George Brooks, eſq. and banker; James Fiſher, the elder, eſq.

Hackney. Thomas Boddington, eſq. Charles Digby, Mare-ſtreet, eſq.

Hammerſmith. James Dorville, eſq. Simon Leſage, eſq. Bryan Marſhall, gent. Benjamin Goodiſon, eſq. James Keene, grocer; Henry Oſbaldiſton, eſq.

Hampſtead. Philip Godſall, gent. and coachmaker; John Peter Blaquire, eſq. and merchant; Thomas Rhodes, Hampſtead-road, cowkeeper.

Hampton. Thomas Chadwick, esq. John Hillman, esq.
Hanwell. William Harwood, esq.
Harlesdown-hill, near *Harrow.* William Nichol, farmer.
Hatton-garden. Nathaniel Wright, surveyor.
Hayes. John Blencowe, esq.
Hendon. Michael Collinson, esq. Edward Hill, gent.
Highgate. Edward Hale, gent. Samuel Provey, esq. and weaver.
High-street, Mary-le-bone. James Sheridine, esq.
Hillington. Samuel Marsh, esq. William Perry, esq. and doctor of physic; James Cook, esq.
Holborn. Robert Mairis, near Great Turnstile, gent.
Hornsey. David Duveluz, esq. and merchant, John Mayhew, esq. and upholder.
Islington. Samuel Pullen, gent.
Kensington. James Wheble, gentleman and tallow-chandler; John Walker, Square, esq. Thomas Ayliffe, esq. Samuel Palmer, esq. Edw. Helme, Parson's-yard, esq. Jeffery Holmes, Young-street, esq. Alexander Baxter, esq. Edward Green, Square, esq. Edmund Jennings, Young-street, esq. Stephen Aisley, esq. Robt. Wilson, Square, esq. Thomas Sanders, Fillimore-place, esq. John Mason, esq. John Battye, esq. Thomas Burnett, Parson's-yard, esq. John Robinson, esq. Isaac Lucas, esq. and oilman; John Jenkinson, esq. Thomas Robinson, Church-lane, esq. and gardener; John Butts, esq. and ironmonger.
Knightsbridge. Sir Joseph Andrews, bart.
Limehouse. Robert Batson, ship-builder; Robert Mellish, ship-builder; James Mitchel, rope-maker; Adam Steinmetz, biscuit-baker; Jeremiah Blakeman, timber-merchant: Thomas Bird, distiller; Charles Turner, sail-maker; Thomas Draine, brewer; Emanuel Goodheart, sugar-refiner; Christopher Richardson, timber-merchant; Norrison Coverdale, rope-maker; Anthony Calvert, merchant.
Lisson-green. James Stephens, esq.
London-street, Tottenham-court-road. George Sewell, gent.
Marlborough street, (Great). John Harrop, gent.
Mile-end. John Charrington, esq. and brewer; John Liptrap, esq. and distiller; Ralph Keddey, esq. and merchant.
Mimms, (South). Francis Baroneau, esq.
Moorfields. Samuel Mills, weaver.
Newington, (Stoke). George Rigby, esq. and Irish-factor; Jonathan Eade, esq. and ship-chandler.
New-road, Tottenham-court-road. Joshua Brooks, dealer in birds; John White, esq. and builder; Cam Farmer, gent.
Northumberland-street. Henry Capel, gent.
Old-street. Richard Child, distiller.
Ormond-street, (New). Thomas Nixon, esq. and merchant; William Cooke, esq.
Paddington-street, St. Mary-le-bone. Richard Carter, esq.
Pall-mall. Richard Croft, esq. and banker.
Percy-street, Rathbone-place. Thomas Elmsley, esq.
Pimlico. George Shakespear, esq. and builder.
Poplar. John Powsey, carpenter and surveyor.

Port-

Portman-ſquare. William Atwick, eſq.

Potter's-bar near *Northam.* Francis Hammond, eſq.

Princes-ſtreet, Red-lion-ſquare. John Lovett, gent.

Queen-ſquare, Bloomſbury. William Fraſer, eſq. William Moffatt, eſq. and merchant; William Arnold, eſq.

Queen-ſtreet, (Great), Lincoln's-inn-fields. Robert Kilby Cox, eſq. and brewer.

Ratcliff. Charles Bowles, Glaſs-houſe-yard, Sun-tavern-fields, glaſs-manufacturer; Joſeph Bird, Cock-hill, eſq. and ſail-maker; John Thompſon, Sun-tavern-fields, rope-maker.

Rathbone-place. Hugh French, eſq. and apothecary.

Ruſſel-place. Sir John Crofts, bart. Charles Biſhop, eſq. and proctor.

St. Catherine's. William Maſhiter, wharfinger; Henry Goodwyn, eſq. and brewer.

St. James's-ſtreet, Piccadilly. James Crane, eſq.

Seymour-ſtreet, (Upper), Mary-le-bone, William Phillimore, eſq.

Shadwell. Newell Connop, diſtiller; Arthur Shakeſpear, Stepney-cauſeway, eſq. and rope-maker; Matthew Whiting, ditto, ſugar-refiner.

Shoreditch. Thomas Proctor, Hollywell-ſtreet, eſq. and brewer; John Marſhall, ditto, eſq.

Smithfield, (Eaſt). William Down, wharfinger; Rawſon Aiſlabie, wine-merchant and ſoap-boiler.

Somer's-town. John Harriſon, Duke's-row, gent.

Southampton-place, New-road. James Haygarth, eſq. and builder; John Mandell, gent. Thomas Matthews, gent.

Southampton-row, Bloomſbury. George Wade, Stockbroker.

South Molton-ſtreet. John Pratt, gent.

Spring-gardens. Edmund Antrobus, New-ſtreet, eſq. and banker.

Stanmore. Samuel Dickenſon, eſq. Charles Wiggin, eſq.

Strand. George Jefferys, jeweller and ſilverſmith.

Sunbury. Roger Boehm, eſq. and merchant; Dicker Saunders, eſq. James Shergold, eſq. William Parker, eſq.

Teddington. William Sandby, eſq. and banker.

Tottenham. Thomas Powell, High-croſs, eſq. and merchant, William Row, ditto, eſq. and broker; Charles Pratt, miller.

Tottenham-ſtreet. John Leader, gent. Joſeph Mawley, gent.

Turnham-green. James Payne, eſq.

Turnmill-ſtreet, Cow-croſs. Philip Booth, diſtiller.

Twickenham. John Davenport, eſq. and woollen-draper; George Goſling, eſq. and banker; Benjamin Green, eſq. and regiſter in Chancery; Edmund Hill, Whilton, eſq. and gunpowder merchant.

Uxbridge. John Mercer, mealman; Daniel Cock, diſtiller.

Wapping. Thomas Martin, King Edward-ſtairs, oilman; John Rixon, Hermitage-ſtreet, cooper; Daniel Mattin, Red Lion-ſtreet, eſq. Andrew Burt, Charlotte-ſtreet, eſq. Michael Henley, coal-merchant; Nathaniel Allen, Wapping-wall, ſhip-chandler.

Wellcloſe ſquare. Theophilus Pritzler, ſugar-refiner; Caſten Rohde, eſq. and ſugar-refiner.

Whitechapel. Henry Bullock, High ſtreet, brewer.

Wilſden. Joſeph Nicoll, Neaſdown, gentleman-farmer; Edward Franklin, farmer.

Wimbley-green. Richard Page, eſq.

SESSION-HOUSE, CLERKENWELL, TUESDAY, OCT. 7.

THE Grand Jury being called, preſented a true bill againſt John Martin, for High Treaſon.

The *Chief Juſtice* asked if there were any more bills ready for the Grand Jury.

The *Foreman* ſaid, the Jury would be glad to adjourn to ſome day, when there might be buſineſs ſufficient to engage them the whole day.

Mr. White, one of the ſolicitors to the treaſury, ſaid, if the court was adjourned till Thurſday, he thought they ſhould be ready with all the Bills that were meant to be preſented, if that day would be convenient for the Jury.

The *Foreman* ſaid, the Jury had no objection.

The *Chief Juſtice* ſaid, he had no objection, after the buſineſs of this day was over, to adjourn the Court to Thurſday, at ten o'clock.

At this moment appeared in Court Mr. Holcroft, who addreſſed the Court to the following effect:

"My Lord,

"Being informed that a Bill for High Treaſon has been preferred againſt me, Thomas Holcroft, by his Majeſty's Attorney General, and returned a true bill by a Grand Jury of theſe realms, I come to ſurrender myſelf to this Court, and my country, to be put upon my trial; that, if I am a guilty man, the whole extent of my guilt may become notorious; and, if innocent, that the rectitude of my principles and conduct may be no leſs public. And I hope, my Lord, there is no appearance of vaunting in aſſuring your Lordſhip, this Court, and my country, that, after the misfortune of having been ſuſpected as an enemy to the peace and happineſs of mankind, there is nothing on earth, after which, as an individual, I more ardently aſpire than a full, fair, and public examination.

"I have further to requeſt that your lordſhip will inform me, if it be not the practice, in theſe caſes, to aſſign counſel, and to ſuffer the accuſed to ſpeak in his own defence? Likewiſe, whether free egreſs and regreſs be not allowed for ſuch perſons, books, and papers, as the accuſed, or his counſel, ſhall deem neceſſary for juſtification?"

Chief

Chief Juſtice.—" With regard to the firſt, Sir, it will be the duty of the Court to aſſign you Counſel, and alſo to order that ſuch counſel ſhall have free acceſs to you at all proper hours—with reſpect, Sir, to the liberty of ſpeaking for yourſelf, the accuſed will be fully heard by himſelf, as well as by his Counſel; but with regard to papers, books, and other things of that kind, it is impoſſible for me to ſay any thing preciſely, with regard to them, until the thing required be aſked. However, Sir, you may depend upon it, every thing will be granted to the party accuſed, ſo as to enable him to make his defence. If I underſtand you rightly, you now admit that you are the perſon ſtanding indicted by the name of Thomas Holcroft?"

Mr. Holcroft.—" Yes, my Lord."

Chief Juſtice.—" You come here to ſurrender yourſelf, and I can only accept of that ſurrender on the ſuppoſition that you are the perſon ſo indicted. You know the conſequence, Sir, of being indicted for High Treaſon. I ſhall be under the neceſſity of ordering you into cuſtody. I would not wiſh to take any advantage of your coming forward in perſon, indiſcreetly, in this manner, without being called upon by the ordinary proceſs of the law. You ſhould have a moment to conſider whether you ſurrender yourſelf as that perſon."

Mr. Holcroft.—" It is certainly not my wiſh either to inflict upon myſelf unneceſſary puniſhment, or to appear to put myſelf forward on this occaſion. I come only as Thomas Holcroft, of Newman-ſtreet, in the county of Middleſex, and I certainly do not wiſh to ſtand more forward, than any other man ought to ſtand."

Chief Juſtice.—" I cannot enter into this point. If you admit yourſelf to be the perſon indicted, the conſequence muſt be, that I muſt order you to be taken into cuſtody to anſwer this charge. I do not know whether you are, or are not, Thomas Holcroft. I do not know you, and therefore it is impoſſible for me to know whether you are the perſon ſtated in the indictment."

Mr. Holcroft.—" It is equally impoſſible for me, my Lord."

Chief Juſtice.—" Why then, Sir, I think you had better ſit ſtill.——Is there any thing moved on the part of the Crown with reſpect to this gentleman?"

Solicitor General.—" My Lord, as I conſider him to be the perſon againſt whom a true bill is found, I move that he be committed."

Chief Juſtice.—" I do not know how many perſons there may be of the name of Thomas Holcroft: it would be rather extraordinary to commit a perſon on this charge, if we do not know him."

Mr.

Mr. Knapp, one of the Counsel for the Crown, contended, that from what the prisoner had said at first in Court, he admitted himself to be the person."

Chief Justice—"That does not signify. Does the Counsel for the Crown think fit that this gentleman should be committed?"

Solicitor General.—"I move that he now be taken into custody."

Chief Justice.—"Sir, you must now stand committed."

A sheriff's officer now took Mr. Holcroft into custody.

Chief Justice to the prisoner.—"Are you prepared to name your Counsel?"

His Solicitor immediately named Mr. Erskine and Mr. Gibbs, whom the Court assigned in the usual form.

The same learned advocates were named for Mr. Thelwall and Mr. Baxter.

John Pearce stated to the Court, that he was an articled clerk to Mr. Martin, against whom the Grand Jury had found a bill. He requested that he might be permitted to attend Mr. Martin, as, without his assistance, he did not think Mr. Martin would be able to proceed to his trial.

The *Solicitor General* objected to this application, because there might be a charge against Mr. Pearce himself.

The *Judge* observed, that until some charge was preferred, he could not refuse this application.

Mr. White, the Solicitor, desired that the order might be postponed until Friday, which the Judge consented to, on condition that a copy of the indictment was not preferred till that time. The Chief Justice then ordered the officer to adjourn the Court.

Mr. Holcroft begged that his servant might be permitted to have access to him.

The *Chief Justice* said, that was a sort of thing that was quite new, and he did not know that he could grant it, unless something was stated by Mr. Holcroft, with respect to his health, to make it requisite.

Mr. Holcroft said, there was nothing of that sort; that he did not know it to be unusual, or he should not have asked it. The reason for his asking it, was, that his servant was his amanuensis; it had been his habit to dictate to this man, and therefore it would be extremely convenient for him to be indulged in this particular, if that was not contrary to custom.

The *Chief Justice* said, he was afraid it was, and he thought it would be proper for Mr. Holcroft to apply to another quarter, which could better grant indulgence than he could, sitting in that Court.

Mr.

Mr. Holcroft ſaid, he wiſhed to have no indulgence; he only wiſhed for juſtice.

The *Chief Juſtice* ſaid, "Then, Sir, I cannot make the order."

The Court then immediately adjourned to Thurſday, at ten o'clock in the morning.

[*The preceding Account being that which appeared in the Public Print, there appeared next Day, in the ſame Prints, the following Note from Mr. Holcroft.*]

TO THE EDITOR, &c.

SIR,

The predicament in which I ſtand is, I preſume, a ſelf-evident motive why I ſhould be aſſiduouſly careful that the following miſtake, in your account of what paſſed yeſterday at Hicks's Hall, ſhould be corrected. You ſtate, that, when aſked by the Chief Juſtice whether I admitted myſelf to be the perſon indicted by the name of Thomas Holcroft, I anſwered, "Yes, my Lord:" Far from anſwering in this direct manner, the queſtion immediately awakened in me ſome apprehenſion of having too implicitly credited the reports I heard, from perſons of various rank and ſtation, that a bill for High Treaſon was found againſt me; the purport of my anſwer to his Lordſhip immediately was, that the only knowledge I had of the event was that which I derived from theſe reports. Such an anſwer as you have been informed I made, might very innocently have eſcaped a very innocent man, though the truth is, it did not happen to eſcape me. It might perhaps too very innocently, but miſtakenly, have implied, in the minds of ſome people, a conſciouſneſs of my having deſerved to be indicted; an innuendo, which, from my heart and ſoul, and with all the faculties I poſſeſs, of mind, memory, and truth, I repel.

THOMAS HOLCROFT.

Newgate, October 8, 1794.

SESSION-HOUSE, CLERKENWELL, THURSDAY, OCT. 9.

THE Court met again at ten o'clock, when the Grand Jury preſented a true bill for High Treaſon againſt *John Hillier*.

Another bill was then preferred by Mr. White, ſolicitor of the treaſury. With this bill the Jury retired to their own room; after which the Court adjourned to Thurſday the ſixteenth of October.

SESSION-

SESSION-HOUSE, CLERKENWELL, THURSDAY, OCT. 16th.

THE Court sat as before. The Grand Jury returned a true bill against *John Philip Frankloe* for High Treason.

Mr. White, solicitor of the treasury, then preferred two other bills to the Grand Jury.

The *Chief Justice* observed, he should wish to adjourn the Court for the accommodation of the Jury, and he thought Tuesday next might be a proper day; in the mean time the Jury would proceed on the bills now before them. His Lordship said, he hoped on Tuesday to discharge the Jury from a very long and laborious service; at least until further summons. His Lordship asked if there was any motion to be made? To which there being no answer, the Court adjourned to Tuesday, the 21st of October.

TUESDAY, OCTOBER 21.

THE Court met, when the Grand Jury found a true bill against *Thomas Spence* for High Treason.

A bill against *John Ashley*, for the same crime, was not found.

Adjourned to Saturday the 25th of October.

[At eight o'Clock on Friday morning, the 24th of October, the prisoners, who were confined in the Tower, were taken from thence by the Sheriffs, and conveyed, in hackney coaches, guarded by constables, &c. but no military, to Newgate.]

SATURDAY, OCTOBER 25.

THE COURT met at the SESSION-HOUSE in the OLD BAILEY, when, at one o'Clock, the following took their seats on the Bench.

THE LORD MAYOR,	SIR B. HOTHAM.
LORD CHIEF JUSTICE EYRE.	SIR N. GROSE.
LORD CHIEF BARON M'DONALD.	SIR F. BULLER.

ALDERMEN.

CLARKE, GILL, PICKET, NEWMAN, MACAULAY, AND ANDERSON.

After the usual proclamation, Mr. *Kirby*, the keeper of Newgate, was ordered to bring to the bar the following prisoners in his custody, against whom the *Grand Jury* had found their

FIRST BILL OF INDICTMENT.

Thomas Hardy, late of Westminster, in the County of Middlesex, shoemaker.

John

John Horne Tooke, late of Wimbledon, in the County of Surrey, clerk.

John Augustus Bonney, late of the Parish of St. Giles in the Fields, in the County of Middlesex aforesaid, gentleman.

Stewart Kyd, late of London, Esq.

Jeremiah Joyce, of the Parish of St. Mary-le-bone, otherwise Marybone, in the County of Middlesex aforesaid, gentleman.

Thomas Holcroft, late of the Parish of St. Mary-le-bone, otherwise Marybone, in the County of Middlesex aforesaid, gentleman.

John Richter, late of Westminster, in the said County of Middlesex, gentleman.

John Thelwall, late of Westminster, in the County of Middlesex aforesaid, gentleman.

John Baxter, late of the Parish of St. Leonard, Shoreditch, in the County of Middlesex aforesaid, labourer.

The Court, immediately on their appearance, wished to know, whether the prisoners' Counsel attended in pursuance to their nomination and appointment?

Mr. *Gurney* replied, that in addition to his learned friends present, who had been retained, he expected Mr. *Erskine*, Mr. *Gibbs*, and Mr. *F. Vaughan*, who had been nominated by the Court.

The Court condescended to wait a few minutes.

The windows which are behind the bar, where the prisoners were, having been previously let down by the *Lord President's* orders, so as to admit a strong current of air, the following observations were made by

Mr. *Horne Tooke*.—"My Lord, I beg leave to represent to the Court, that we have just come out of a very confined and close hole, and the windows, now opened at our backs, expose us to so much cold air, that our health, particularly my own, will be considerably endangered, and most probably we shall lose our voices before we leave the place. I shall, therefore, request of the Court to be dismissed as soon as their convenience will permit."

The *Lord President* of the Commission.—"If you are prepared to plead, Sir, you may be dismissed almost immediately. We are waiting for your Counsel, that you might have the benefit of their assistance."

Mr. *H. Tooke*.—"My Lord, in a great measure am I prevented from being now able to say any thing on the subject of the indictment, from the circumstance of our not having had the ten clear days allowed by Act of Parliament, to persons in our situation. By the change of custody a whole day has been completely lost to us; in consequence, we have not had an opportunity

of converſing with our Counſel. Mr. *Erſkine* and Mr. *Gibbs* had engaged themſelves to dine with me on Friday, for the purpoſe of conferring together on the buſineſs of this day. Notice was given me as late as nine or ten on Thurſday night only of my intended removal; I was removed by eight o'clock the next morning: it was perfectly impoſſible for me, therefore, to take the advantage of my Counſel's advice, as our arrangements were thus completely deſtroyed, and all my papers, which I had collected and arranged in the Tower, thrown into diſorder and confuſion. Your Lordſhip—who never was a priſoner—can have but a very imperfect idea of the change of cuſtody."

The *Lord Preſident.*—" The Court is inclined to make every allowance that can be expected, and is willing to wait the arrival of your Counſel."

Mr. *Tooke.*—" Rather than catch cold, I ſhould chuſe to plead at preſent. I aſk no indulgence, but deſire ſubſtantial juſtice. When I mentioned the circumſtance of the day's loſs, I did not, by any means, wiſh to cauſe delay. It is undoubtedly clear, that the Act, which ſays, that *not leſs* than ten days ſhould be allowed, by no means meant to preclude the accuſed from having the advantage of *more* than ten days, if neceſſary for the preparation of materials requiſite for their defence. I hope that no inconvenience will ariſe to us from the ſhifting of cuſtody;—but we certainly have not had the indulgence which that law intended us. I am, however, ready to plead, though deprived of the advantage of my papers, and the benefit of advice. We have been ſix months in cloſe confinement, without being able yet to imagine what was the nature of the charges to be brought againſt us, nor have we been able to diſcover it from the indictment found againſt us."

Mr. *Thelwall.*—" My Lord, I think it my duty, and an act of juſtice to myſelf and my country, to mention, in this public manner, the hardſhips which we have ſuffered. Not to mention the loſs of a day, I myſelf have to complain of a circumſtance very detrimental indeed to me. I have been deprived of the benefit of my books and papers, which I had collected together, and arranged in the Tower. When we were removed from the Tower, the ſheriffs thought proper not to allow me time ſufficient to take them with me; I do not mean to attach any blame to them, when I mention this, for with great politeneſs they promiſed I ſhould have them ſent me.—Afterwards, when I had an opportunity of ſending for them through the medium of a friend who was ſending to the Tower for ſome things he wanted, I was refuſed, and received an evaſive anſwer. I was informed, that they could not ſend what I wanted, as I had a number of other things there, and they muſt be ſent for together,

together, as it would be necessary to have a separate coach for them. This morning I received a second evasive answer. I mention this circumstance not with any view of delay, for I am as anxious, as any man can be for any thing, to meet the justice of my country."

The Indictment was then read by the Clerk of the Arraigns. It charged the Prisoners, that they being subjects of the King, not having the fear of God in their hearts, nor weighing the duty of their allegiance, but being moved and seduced by the instigation of the Devil, withdrawing their affection and allegiance from the King, did, on the first of March last, contrive, in concert with other persons, to disturb the peace of the kingdom, to subvert the Government, to depose the King, and to put him to death.

The Indictment then proceeded to specify, and set forth in nine different counts, the overt acts of the above compassings and imaginations. (See p. 23—28.)

The prisoners were then severally asked the usual questions, "*Guilty or not guilty?*"—*How will you be tried?*"

Mr. *Hardy*.—"*Not guilty*."—"*By God and my country*."

Mr. *Tooke*.—"*Not guilty*." On being asked how he would be tried, he eyed the Court for some seconds with an air of significancy, which few men are so well able to assume, and, shaking his head, emphatically answered—"*I* WOULD *be tried by God and my country*. But——"

The others answered in the usual manner—"*Not guilty*"—"*By God and my country*."

Mr. *Bonney* was about to make some remarks, when he was interrupted by

The *Lord President*.—"Tooke having complained of the coldness of the air, may withdraw."

Mr. Tooke then withdrew.

John Augustus Bonney.—"My Lord, there is an *error* in this indictment, which entitles me to plead in abatement. I am described late of the parish of *St. Giles in the Fields*, whereas I ought to have been described of the parish of *St. Pancras*. I never did reside in the parish of St. Giles. But, my Lord, I am also charged by this indictment with having committed treason in the parish of St. Giles; and as my description is just as true and correct as this assertion, I am content to take my trial upon the indictment in it's present form; for I look forward with earnest and anxious expectation for the day when a Jury of my country shall justify me from the aspersions thrown on my character by this indictment: I therefore wave my objection, and plead generally, that *I am not guilty*."

Mr. *Thelwall.*—" There is a circumſtance, my Lord, which my Counſel have informed me would entirely quaſh this indictment as far as regards me, if I were inclined to take advantage of it. My deſcription is not right: I am deſcribed as an inhabitant of *Weſtminſter*, whereas I reſide in the *Liberties* of the *Dutchy* of *Lancaſter*. Anxious as I am to have my conduct examined into by my country, I deſpiſe the idea of availing myſelf of any paltry ſubterfuge. I feel perfectly convinced, that when the long expected day ſhall come, no *honeſt* Jury can ſay otherwiſe than I do now,—*Not guilty*."

Mr. *Bonney* then ſaid, " I beg that your Lordſhips will allow me a few words before we quit the bar. I aſſure you, if I had been arraigned for any known or certain treaſon, for murder, or for felony, I would aſk no favour of your Lordſhips; but when I ſtand before you upon a caſe, in which (and I believe I have your Lordſhips' opinion in my favour on the ſubject) if the facts charged againſt us ſhould be proved, there would ſtill be very great doubt upon the law, I truſt I do not make an improper requeſt when I ſolicit your Lordſhips, that we may be allowed as many of the little comforts and conveniences of life (to which we have been accuſtomed) as may be conſiſtent with the ſecurity of our perſons. Your Lordſhips, I am ſure, will agree with me, that a ſituation in which a man can neither ſleep by night, nor caſt his eye on a ray of comfort by day, is not much adapted to prepare his mind for ſo important a trial as mine—and yet, my Lords, ſuch is my ſituation.

" I beg to be underſtood not to intend the ſmalleſt inſinuation againſt the Sheriffs, their language and their countenances, when they viſited me yeſterday in my cell, ſufficiently convinced me of the concern they felt at not being able to afford me better accommodation. My requeſt, therefore, to your Lordſhips is, that we may be remanded to the cuſtody of the Governor of the Tower, where we have been treated, for two and twenty weeks, with the greateſt humanity and attention."

Mr. *Richter* and Mr. *Baxter* alſo complained of the want of accommodation in the places where they were confined.

The *Lord Preſident.*—" I muſt repeat, that the Court can only refer you to the diſcretion and humanity of the Sheriffs, who have already undertaken to pay attention to your complaints."

Mr. *Attorney General.*—" My Lord, as the Priſoners have ſignified their deſire to be tried ſeparately, I move that Mr. Hardy be tried firſt; and that the warrants, made neceſſary by a late Act of Parliament, for conſtituting the commiſſion, be recorded."

Mr. Erſkine, who, together with Mr. Gibbs and Mr. Vaughan, Counſel for the Priſoners, had come into Court during the reading of the Indictment by the Clerk of the Crown, apologized

apologized to the Court for their momentary abſence, as not expecting the buſineſs of the Court to begin ſo early. He underſtood that Mr. *Horne Tooke* had ſtated, and truly to the Court, the total want of communication between him and his Counſel, owing to his unexpected removal. He therefore confided in the diſcretion and humanity of the Court, that they would, in ſome degree, remedy this evil, by not proceeding to trial till Tueſday next at the ſooneſt, in order to afford an interval for ſuch communication between the Priſoners and Counſel as was neceſſary for their ſafety.

The *Attorney General* ſaid, the Priſoners were duly apprized of their being to be arraigned as on this day. Their removal from the Tower to Newgate was arranged to take place as late as poſſible, in order to prevent their being embarraſſed by interruption in their communication with their Friends and Counſel. Of the preſent objection he had heard nothing till the preſent moment, which he was convinced was unpremeditated, elſe he was ſatisfied that the Counſel would not have concealed it from him. As the great object, however, he had in view was, that a Jury of the Country ſhould ultimately decide whether or not thoſe charges were well or ill founded, which a Grand Jury had already declared were not totally deſtitute of foundation, he was ready to aſſent to the delay propoſed, and therefore had no objection, if the Court ſo willed it, that the trial of Mr. Hardy ſhould ſtand over till Tueſday.

The Court accordingly decided to poſtpone the commencement of the trials till Tueſday next. The Attorney General ſuggeſted to the Court, either that they muſt meet on Monday next, for which day the Petit Jury were ſummoned, or elſe they muſt be ſummoned afreſh for Tueſday.

The Court directed that the Sheriff ſhould give notice to the Gentlemen of the Jury, that their preſence would not be neceſſary till Tueſday; and that the Court would meet on Monday morning *pro forma*, and ſo adjourn over to the following day, then to proceed to buſineſs.

The Court was then adjourned till Monday next at eight o'clock in the morning,

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Monday, October 27.

The Court met at ſeven o'clock in the morning, *pro forma*, and adjourned till ſeven o'clock in the morning of the next day.

THE

THE TRIAL OF THOMAS HARDY.

SESSION-HOUSE, OLD-BAILEY.

TUESDAY, OCTOBER 27, 1794.

THE Court met precisely at eight o'clock, when the Prisoner, Mr Thomas Hardy, was put to the Bar, and the names of the Jury being called over, and 134 being present, the Lord President ordered them to form the Pannel.

The *Clerk* of the Court then addressed the Prisoner:

Prisoner at the Bar, these good men you shall hear called, are those that are to appear between our Sovereign Lord the King and you, on the trial of your life or death; if, therefore, you will challenge them, or any of them, you must challenge them as they come to the book to be sworn, and before they are sworn, and you shall be heard.—The Clerk then proceeded to call

Major Rhode, of Lemon-street, Goodman's-fields, Esq. and sugar-baker.

Mr. *Erskine*. I challenge him.

Charles Digby, Mare-street, Hackney, Esq.

Mr. *Erskine*. I challenge him.

Mr. *Attorney General*. Let the challenges be made public, that we may know who is challenged.

Mr. *Erskine*. I have no objection; but the Court being so full, I was not willing to give the gentleman the trouble of getting into the boxes.

Mr. *Attorney General*. I desire not that the gentleman should come out of his place; but I desire that the challenges may be publickly made.

Thomas Martin, oilman, King Edward-stairs, Wapping.—Sworn.

George Jefferys, of the Strand, jeweller and silversmith.—Sworn.

Hugh French of Rathbone-place, Esq. and apothecary.

Mr. *Erskine*. I challenge him.

Robert Mellish, of Limehouse, ship-builder.

Mr. *Erskine*. I challenge this Juror.

William Harwood, of Hanwell, Esq.

Mr. *Attorney General*. I challenge him.

James Hagarth, of Southampton-place, New-road, Esq. and builder.

Mr. *Attorney General*. I challenge him.

Mr. *Erskine*, I challenge him.

Robert

Robert Lewis, of North-end, Fulham, Esq.—Having the gout on me, I would beg leave to be excused.

John Walker, of Kensington-square, Esq.

George Wade, of Southampton-row, Bloomsbury, stock-broker.

Mr. *Attorney General.* I challenge him.

Thomas Buck, of Acton, Esq.—Sworn.

Thomas Ayliffe, of Kensington-square, Esq.

Mr. *Erskine.* I challenge him.

Thomas Wood, of Hanging-hill, Ealing, Esq. and coal merchant.—Sworn.

Mark Hudson, of Bow, Esq. and brewer.

Mr. *Erskine.* I challenge him.

John Mandell, of Southampton-place, gent.

Mr. *Erskine.* I challenge him.

Henry Bullock, this side of Colnbrook.

Mr. *Attorney General.* I challenge him.

John Powsey, of Poplar, carpenter and surveyor.

Mr. *Erskine.* I challenge him.

Thomas Rhodes, of Hampstead Road, cow-keeper.

Mr. *Erskine.* I challenge him.

Edward Helme, of Parsons-yard, Esq. Kensington.—I am not a freeholder of the county of Middlesex.

Messrs. *Martin*, *Jefferys*, and *Walker*, who before had been sworn, then observed, that they were not freeholders of the county of Middlesex, and that they would have mentioned it before, but they did not know it would excuse them.

Court. Then you may withdraw.

Mr. *Erskine.* I do not make the objection.

Court. Such of the gentlemen that are not freeholders of the county of Middlesex, must withdraw.

Thomas Martin.

Q. Are you a freeholder of this county?

Mr. *Martin.* My freehold is in the city of London, in Cow-lane, West-Smithfield.

Court. You may withdraw.

Mr. *Attorney General.* Have you any copyhold estate in the county of Middlesex?

Mr. *Martin.* No, none.

George Jefferys of the Strand.—I am not a freeholder of the county of Middlesex.

Court. Then that gentleman may withdraw.

John Walker, of Kensington-square, Esq.

Q. Are you a freeholder of the county of Middlesex?

Mr. *Walker.* I am not.

Thomas

Thomas Buck.

Q. Are you a freeholder?

Mr. *Buck.* I am not.

Thomas Wood.

Q. Are you a freeholder?

Mr. *Wood.* Yes.—Sworn.

Jeffery Holmes, of Young-ſtreet, Eſq.

Mr. *Attorney General.* I challenge him.

William Fraſer, of Queen Square, Bloomſbury, Eſq.

Q. Are you a freeholder?

Mr. *Fraſer.* I am.—Sworn.

Apſley Pellatt, of St. John's-ſtreet, Clerkenwell, ironmonger.

Q. Are you a freeholder?

Hugh Ronalds, of Brentford, Eſq. nurſeryman.

Q. Are you a freeholder of this county?

A. I am.

Mr. *Erſkine.* I challenge him.

Thomas Harriſon, of Gray's Inn-lane, cow-keeper.

Q. Are you a freeholder of this county?

A. I am.

Mr. *Erſkine.* I challenge him.

Daniel Goſſet, of Edmonton, Eſq. and broker.

Q. Are you a freeholder of this county?

A. I am not.

Richard Meux, of Ealing, Eſq. and brewer.

Q. Are you a freeholder of this county?

A. I am not.

Dicker Saunders, of Sunbury.—I am not a freeholder. I am one of the people called Quakers.

Calvert Clapham, of Duke-ſtreet, Weſtminſter, gent.

Q. Are you a freeholder of this county?

A. I am not.

John Leader, of Tottenham-ſtreet, gent.

Q. Are you a freeholder of the county of Middleſex?

A. Yes.

Mr. *Erſkine.* Are you a freeholder and copyholder of the value of 10*l.* per year?

A. Yes. I am a freeholder of 10*l.* a year.

Mr. *Erſkine.* I challenge him.

John Gueſt, of Clerkenwell, Eſq. and potter.—I muſt beg leave to inform your lordſhips, that ſome time back, I had a dreadful fall, which hath hurted me ſo, that it is impoſſible for me to ſit two hours in one poſture.—Excuſed.

Charles Fourdrinier, of Charing-croſs, ſtationer.

Q. Are you a freeholder of the county of Middleſex?

A. I am not.

Adam Steinmetz, of Limehouſe, biſcuit-baker.

Q. Are you a freeholder of the county of Middleſex?

A. Yes.

Q. Have you a freehold and copyhold of the value of 10*l.* a year?

A. Yes.

Mr. *Attorney General.* Are you a natural born ſubject?

A. Yes, Sir.—Sworn.

Alexander Baxter, of Kenſington, Eſq.

Q. Are you a freeholder of this county?

A. No, I am not.

Richard Child, of Old-ſtreet, diſtiller.

Q. Are you a freeholder of the county of Middleſex?

A. No, I am not.

Jeremiah Blakeman, of Limehouſe, timber-merchant.

Q. Are you a freeholder of the county of Middleſex?

A. Yes.

Q. Are you a freeholder and copyholder to the amount of 10*l.* a year?

A. Yes.

Mr. *Erſkine.* I challenge him.

Robert Kilby Cox, of Great Queen-ſtreet, Eſq. and brewer.

Q. Have you a freehold to the value of 10*l.* a year?

A. Yes.

Mr. *Erſkine.* I challenge him.

Richard Hunt, of Windmill-lane, Eſq.—I am not a freeholder.

James Payne, of Turnham-green, Eſq.

Q. Are you a freeholder of the county of Middleſex?

A. Yes. I am a freeholder to the value of more than 10*l.* a year.

Mr. *Attorney General.* I challenge him.

Newell Connop, diſtiller.

Q. Are you a freeholder?

A. I am.

Q. To the value of 10*l.* a year?

A. Yes.—Sworn.

William Sandby, of Teddington, Eſq. and banker.—A perſon ſpoke for him, and begged leave to addreſs the Court in behalf of him, that he is 76 years of age.—Excuſed.

John Mercer, of Uxbridge, mealman.

Q. Are you a freeholder?

A. Yes.

Q. Are you a freeholder to the amount of 10*l.* a year?

A. Yes.—Sworn.

John Rickſon, of Hermitage-ſtreet, Wapping, cooper.

Q. Are you a freeholder of the county of Middleſex?

A. I am.

Q. To

Q. To the amount of 10*l.* a year?

A. Yes. My name is ſpelt wrong in the notice that I have there; I ſpell my name Rixon, and this is ſpelt Rickſon.

Clerk. It is ſpelt right in the pannel.

Mr. *Attorney General.* I challenge him.

Thomas Sayer, of Bow, Eſq. and diſtiller.

Q. Are you a freeholder?

A. Yes.

Q. Is your copyhold and freehold together to the amount of 10*l.* a year?

A. Yes.—Sworn.

Edward Hale, of Highgate, gent.

Q. Are you a freeholder?

A. Yes, to the amount of 10*l.* a year.

Mr. *Erſkine.* I challenge him.

George Fillingham, of St. John's-ſtreet, Clerkenwell, Eſq. and hop-factor.

Q. Are you a freeholder?

A. Yes.

Q. To the amount of 10*l.* a year?

A. Yes.

Mr. *Erſkine.* I challenge him.

Samuel Rudge, of Elſtree, Eſq.—I am not a freeholder.

William Perry, of Hillington, Eſq.

Q. Are you a freeholder?

A. I am.

Q. Are you a freeholder to the amount of 10*l.* a year?

A. I am.

Mr. *Erſkine.* I challenge him.

Richard Gough, of Forty-hill, Enfield, Eſq.

Q. Are you a freeholder of the county of Middleſex?

A. Yes.

Q. To the amount of 10*l.* a year?

A. Yes.

Mr. *Erſkine.* I challenge him.

Joſhua Brooks, of New Road, Tottenham-court Road, dealer in birds.

Q. Are you a freeholder of the county of Middleſex?

A. My freehold is in the city, in the pariſh of St. Dunſtan's.

Thomas Lawrence, of Strand on the Green, Chiſwick, Eſq.

Q. Are you a freeholder of the county of Middleſex?

A. No.

Thomas Skip Dyott Bucknall, Eſq. of Baker-ſtreet, Portman-ſquare.

Q. Are you a freeholder?

A. I muſt juſt ſpeak firſt. I have been long ſubject to a very nervous

nervous cough, and I am apprehenſive that I cannot ſit out a very long trial. I come to ſhew my reſpect to the court; I am a freeholder, but my name is, I believe, not entered on the freehold books.

Lord Preſident. If you really think yourſelf not able to ſupport the fatigue of a long trial from your ſtate of health, I ſhould, for myſelf, be inclined not to preſs you on this ſervice.

Mr. *Bucknall.* I have not been in a play-houſe for ſeven years, merely from fear.

Lord Preſident. You behave very honorably in paying a proper reſpect to the court, by appearing, inſtead of attempting to make an excuſe by others. We leave it to yourſelf; if you deſire to be excuſed on account of your ill health, you may.

Mr. *Bucknall.* As there are many exceptions, I will ſtand this time, only do not call on me any more.

Lord Preſident. Then you will ſerve now?

A. I will ſerve now.

Mr. *Erſkine.* I cannot think of preſſing Mr. Bucknall. I challenge him.

John Blackburn, of Edmonton, Eſq. and merchant.

Q. Have you a freehold?

A. Yes, of 10*l.* a year.

Mr. *Erſkine.* I challenge him.

Samuel Mills, of Moorfields, weaver.—I am only the tenant in poſſeſſion. I am not of age till I am thirty-five, by my father's will. My father left, in his will, all his eſtate to my brother and me, and appointed truſtees; and we are not of age till we are thirty-five.

James Oliphant, of Cockſpur-ſtreet, hatter.—I am upwards of ſeventy years of age.

Joſeph Bird, of Cock-hill, Ratcliffe, Eſq.—I am not a freeholder.

John Dorwill.—He is not here.

Thomas Powell, of Tottenham-high-Croſs, Eſq. and merchant.

Q. Are you a freeholder?

A. I am.

Q. To the amount of 10*l.* a year?

A. I am.

Mr. *Erſkine.* I challenge him.

William Emerſon, of Buſh-hill, Enfield, Eſq.

Q. Are you a freeholder of the county of Middleſex?

A. No.

Nathaniel Stonard, of Bromley, brewer.

Q. Are you a freeholder of the county of Middleſex?

A. I am.

Q. To the amount of 10*l.* a year?
A. I am.—Sworn.
Joseph Mawley, of Tottenham-street, gent.
Q. Are you a freeholder of the county of Middlesex?
A. I am not.
Thomas Allen, of Bur-street, East-smithfield, brewer.
Q. Are you a freeholder of the county of Middlesex?
A. Yes.
Q. To the amount of 10*l.* per year?
A. Yes.
Mr. *Erskine.* I challenge him.
John Baker, of Ealing, Esq.
Q. Are you a freeholder, Sir?
A. I am.
Q. To the amount of 10*l.* a year?
A. I am.
Mr. *Erskine.* I challenge him.
William Rowe, of Tottenham-high-Cross, Esq.
Q. Are you a freeholder of the county of Middlesex?
A. I am not.
James Smith, of Ealing, Esq.
Q. Are you a freeholder?
A. Yes.
Mr. *Erskine.* I challenge him.
Bryan Marshall, of Hammersmith, gent.
Q. Are you a freeholder?
A. Yes.
Q. To the amount of 10*l.* a year?
A. Yes.
Mr. *Erskine.* I challenge him.
Joseph Nicholl, Neasdown, Wilsden, gentleman farmer.
Q. Are you a freeholder?
A. Yes.
Q. To the amount of 10*l.* a year?
A. Yes, I am.—Sworn.
Thomas Bird, of Limehouse, distiller.—I am not a freeholder.
Robert Vincent, of Ealing, Esq.—I am not a freeholder.
David Roberts, of Ealing, Esq.
Q. Are you a freeholder?
A. I am.
Q. To the amount of 10*l.* a year?
A. Yes.
Mr. *Erskine.* I challenge him.
John Rudge.—I am above 70 years of age.
George Brooks, Esq; and banker, Green-street, Grosvenor Square.

Q. Are

Q. Are you a freeholder?
A. I am not.
William Arnold, of Queen Square, Esq.
Q. Are you a freeholder?
A. I am not.
Thomas Nixon, of New Ormond Street, Esq. and merchant.
Q. Are you a freeholder of the county of Middlesex?
A. No.
Thomas Smith, of Upperside, Ealing, Esq. and distiller.
Q. Are you a freeholder of the county of Middlesex?
A. I am.
Q. Of 10*l.* a year?
A. Yes.
Mr. *Erskine.* I challenge him.
John Charrington, of Mile End, Esq. and brewer.
Q. Are you a freeholder of the county of Middlesex?
A. Yes, of 10*l.* a year.—Sworn.
George Rigby, of Stoke Newington, Esq. and Irish factor.—I am no freeholder.
Thomas Allen, Bur Street, East Smithfield.
Q. Are you a freeholder of the county of Middlesex?
A. Yes, of 10*l.* a year.
Mr. *Erskine.* I shall challenge this gentleman, I see he is in a convenient place.
Andrew Burt, of Charlotte Street, Wapping, Esq.
Q. Are you a freeholder?
A. Yes, of 10*l.* a year.
Mr. *Attorney General.* I challenge him.
Charles Smith, of Bromley, distiller.
Q. Are you a freeholder?
A. Yes.
Q. Are you a copyholder and freeholder together to the value of 10*l.* a year?
A. Yes.
Mr. *Erskine.* I challenge him.
Archibald Paxton, of Buckingham Street, wine merchant.
Q. Are you a freeholder of the county of Middlesex?
A. Yes.
Q. To the amount of 10*l.* a year?
A. Yes.
Mr. *Erskine.* And I challenge him too.
Ralph Keddey.—I am no freeholder.
John Horsley, of Bull's Cross, Enfield, Esq.—I am no freeholder.
William Nicholl, a farmer, Harlesdown-hill, near Harrow.

Q. Are

Q. Are you a freeholder?
A. Yes.
Q. To the value of 10*l.* a year?
A. Yes.
Mr. *Erskine.* I challenge him.
Edward Franklin, of Wilsden, farmer.
Q. Are you a freeholder?
A. Yes.
Q. To the value of 10*l.* year?
A. Yes. I am upwards of 66 years of age, and I have got such a complaint in my bowels, that I do not know how to stand.
Michael Henley, of Wapping, coal-merchant.
Q. Are you a freeholder of the county of Middlesex?
A. Yes.
Q. To the value of 10*l.* a year?
A. Yes.
Mr. *Erskine.* I challenge him.
John Thompson, of Chiswick, brewer.
Q. Are you a freeholder of the county of Middlesex?
A. Yes, 10*l.* a year.
Mr. *Erskine.* I challenge Mr. Thompson. Be so good as to ask Mr. Thompson whether his freehold is in Middlesex?
A. It is.
Q. And not in London?
A. No.
Mr. *Erskine.* I challenge him.
Joseph Ainsley, of Broad-street, St. George's in the East, coal-merchant.
Q. Are you a freeholder of the county of Middlesex?
A. Yes.
Q. To the value of 10*l.* a year?
A. Yes.——Sworn.

The twelve Jurymen sworn to the trying of the cause, were as follow:

Thomas Buck, Thomas Wood, William Fraser, Adam Steinmetz, Newell Connop, John Mercer, Thomas Sayer, Richard Carter, Nathaniel Stonard, Joseph Nicholl, John Charrington, and Joseph Ainsley.

The Indictment was then read over to the Jury, and the Prisoner given them in charge, informing them that he had put himself on his trial, on God and his country, which country they were, and their charge was to inquire whether he is Guilty or not; if they found him guilty, they were to inquire what goods, lands, and tenements, he had at the time he committed the treason;

ſon: and if they found him not guilty, they were to inquire whether he fled for it, and if they found he fled, then they were to inquire what goods, lands, and tenements, he poſſeſſed at the time of ſuch flight.

The Indictment was opened by Mr. Wood, as follows:

Gentlemen of the Jury, this is an indictment againſt the Priſoner, Thomas Hardy, at the Bar, who, together with John Horne Tooke, John Auguſtus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgſon, and John Baxter, in the Indictment are charged that they traiterouſly conſpired, compaſſed, imagined, and intended to ſtir up, move, and excite inſurrection, rebellion, and war againſt our Lord the King, and to ſubvert and alter the legiſlative rule and government now duly and happily eſtabliſhed in this kingdom of Great Britain, and to depoſe our ſaid Lord the King from the Royal ſtate, title, power, and government of this kingdom, and to put and bring our ſaid King to death.

The firſt overt act charged on this indictment is, that they met, conſpired, conſulted, and agreed among themſelves, and together with divers other falſe traitors, to cauſe and procure a Convention and Meeting of divers ſubjects of our ſaid Lord the King, to be aſſembled and held within this kingdom, with intent and in order that the perſons to be aſſembled at ſuch Convention and Meeting, ſhould and might, wickedly and traiterouſly, without, and in defiance of the authority, and againſt the will of the Parliament of this kingdom, ſubvert, act, alter, and cauſe to be ſubverted and altered the legiſlative rule and government now duly and happily eſtabliſhed in this kingdom, and depoſe and cauſe to be depoſed our ſaid Lord the King from the Royal ſtate, title, power, and government thereof.

The ſecond overt act charged is, that they did compoſe and write, and did then and there maliciouſly and traiterouſly cauſe to be compoſed and written, divers books, pamphlets, letters, inſtructions, reſolutions, orders, declarations, addreſſes, and writings, and did then and there maliciouſly and traiterouſly publiſh, and did then and there maliciouſly and traiterouſly cauſe to be publiſhed divers other books, pamphlets, letters, inſtructions, reſolutions, orders, declarations, addreſſes and writings, ſo reſpectively compoſed, written, and publiſhed, and cauſed to be compoſed, written, and publiſhed, purporting and containing therein, among other things, incitements, encouragements, and exhortations to move, induce, and perſuade the ſubjects of our ſaid Lord the King to chooſe, depute, and ſend, and cauſe to be choſen, deputed, and ſent, perſons as delegates, to compoſe and conſtitute

ſuch

ſuch Convention and Meeting as aforeſaid, to be ſo holden as aforeſaid, for the traiterous purpoſes aforeſaid.

The third overt act is, that they traiterouſly did conſult and deliberate among themſelves, and together with divers other falſe traitors, of and concerning the calling and aſſembling ſuch Convention and Meeting as aforeſaid, for the traiterous purpoſes aforeſaid, and how and when ſuch Convention and Meeting ſhould be aſſembled and held, and by what means the ſubjects of our ſaid Lord the King ſhould and might be induced and moved to ſend perſons as delegates to compoſe and conſtitute the ſame.

The fourth overt act is, that they traiterouſly did conſent and agree among themſelves, and with other falſe traitors, that Jeremiah Joyce, John Auguſtus Bonney, John Horne Tooke, Thomas Wardle, Matthew Moore, John Thelwall, John Baxter, Richard Hodgſon, one John Lovatt, one William Sharp, and one John Pearſon, ſhould meet, confer, and co-operate among themſelves, and together with divers other falſe traitors, whoſe names are to the ſaid Jurors unknown, for and towards the calling and aſſembling ſuch Convention and Meeting as aforeſaid, for the traiterous purpoſes aforeſaid.

The fifth overt act is, that they traiterouſly did cauſe and procure to be made and provided, and did then and there maliciouſly and traiterouſly conſent and agree to the making and providing of divers arms and offenſive weapons, to wit, guns, muſquets, pikes, and axes, for the purpoſe of arming divers ſubjects of our ſaid Lord the King, in order and to the intent that the ſame ſubjects ſhould and might unlawfully, forcibly, and traiterouſly oppoſe and withſtand our ſaid Lord the King in the due and lawful exerciſe of his royal power and authority in the execution of the laws and ſtatutes of this realm, and ſhould and might unlawfully, forcibly, and traiterouſly ſubvert and alter, and aid and aſſiſt in ſubverting and altering without and in defiance of the authority and againſt the will of the Parliament of this kingdom, the legiſlature, rule, and government now duly and happily eſtabliſhed in this kingdom, and depoſe, aid and aſſiſt in depoſing our ſaid Lord the King.

The ſixth overt act is, that they did conſpire, conſult, and agree among themſelves, and with divers other falſe traitors, to raiſe, levy, and make inſurrection, rebellion, and war within this kingdom of Great Britain, againſt our ſaid Lord the King.

The ſeventh overt act is, that they traiterouſly did conſpire, conſult, and agree among themſelves, and together with divers other falſe traitors, to ſubvert and alter, and cauſe to be ſubverted and altered, the legiſlature, rule, and government now duly and happily eſtabliſhed in this kingdom, and to depoſe and cauſe to be depoſed our ſaid Lord the King from the Royal ſtate, title, power, and government of this kingdom.

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The eighth overt act is, that they did traiterouſly cauſe and procure to be prepared and compoſed, divers books, pamphlets, letters, declarations, inſtructions, reſolutions, orders, addreſſes, and writings, and did then and there maliciouſly and traiterouſly cauſe and procure to be publiſhed and diſperſed, divers other books, pamphlets, letters, declarations, inſtructions, reſolutions, orders, addreſſes, and writings; the ſaid ſeveral books, pamphlets, letters, declarations, inſtructions, reſolutions, orders, addreſſes, and writings, ſo reſpectively prepared, compoſed, publiſhed, and diſperſed, and cauſed to be prepared, compoſed, publiſhed, and diſperſed as laſt aforeſaid, purporting and containing therein (amongſt other things) incitements, encouragements, and exhortations, to move, induce, and perſuade the ſubjects of our ſaid Lord the King to aid and aſſiſt in carrying into effect ſuch traiterous ſubverſion, alteration, and depoſition as laſt aforeſaid, and alſo containing therein, among other things, information, inſtructions, and directions to the ſubjects of our ſaid Lord the King, how, when, and upon what occaſions the traiterous purpoſes laſt aforeſaid ſhould and might be carried into effect.

The ninth and laſt overt act is, that they did procure and provide, and did then and there traiterouſly cauſe and procure to be provided, and did then and there maliciouſly and traiterouſly conſent and agree to the procuring and providing arms, and offenſive weapons, to wit, guns, muſquets, pikes, and axes, therewith to levy and wage war, inſurrection, and rebellion againſt our ſaid Lord the King, within this kingdom, againſt the duty of their allegiance, and againſt the peace of our ſaid Lord the now King, his crown and dignity, and againſt the form of the ſtatute in that caſe made and provided. To this Indictment the Priſoner has pleaded Not Guilty, whereupon the iſſue is joined.

The Caſe was then opened in the following

SPEECH OF THE ATTORNEY GENERAL.

Pleaſe your Lordſhip and Gentlemen of the Jury, in the courſe of ſtating what I have to offer to your moſt ſerious attention in this great and weighty buſineſs before you, affecting, as it certainly does, the deareſt intereſts of community, and affecting, as you will remember throughout this buſineſs, every intereſt which can be valuable to the priſoner at the bar, I ſhall have frequent occaſion to call that anxious attention to the different parts of the indictment which has juſt been opened to you. Why I forbear to do ſo at this moment is, becauſe I think that attention will be more uſe-

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fully given and acquired, both with respect to the public and to the prisoner, in another part of what I am now going to state.

Gentlemen, the prisoner who is before you stands charged, to state the indictment generally, with the offence of compassing his Majesty's death. He was committed on that charge by his Majesty's Privy Council. I will explain to you why I state these and the following facts. In consequence of the apprehension of this prisoner, and of several others charged by this indictment, and of others whose names do not occur in this indictment, proceedings of some notoriety were had in parliament, and an act passed, empowering his Majesty to detain such persons as he suspected were conspiring against his government; that act asserted, that a traiterous and detestable conspiracy had been formed for subverting the existing laws of this country, and for introducing that system of anarchy and confusion, which hath so fatally prevailed in France. The act, on the spur of emergency, was to contribute to authorise his Majesty's Privy Council in the detention, without mainprize or discharge, the prisoners then in prison for high-treason or treasonable practices, or who should afterward be apprehended under such circumstances, till the first of February, 1795.

Gentlemen, this measure, which did not suspend the operation of the Habeas Corpus act, that grand palladium of English liberty, but with reference to particalar persons, under particular commitments, for particular offences, is a measure never admitted in this country by Parliament, but in cases in which, after giving all possible attention to the security of the rights of the subject from being broke in upon, it is found to be the last possible necessity, and which hath been repeatedly put in force in the best of times, in several cases where the wisdom of Parliament apprehended it was consistent with the measure of their duty, that the nation should part with it's liberty for a while, that it might not lose it for ever.

Gentlemen, appearing before you this day in the discharge of that duty which I have given me to execute, in the execution of which, it appears to me to be absolutely necessary, as you will collect from the fact, that I do appear here this day, I have to observe to you, that according to the true constitutional meaning of such an Act of Parliament, it is not that the trial of such persons should be delayed during the particular days of the suspension of the Act, but that the Act should, with reference to the time of trial, be allowed in the right execution of it; and it's operation only should be of that extent, which a due consideration of the public safety, tempered with a due attention to the liberty of the subject, calls for.

Gentlemen,

Gentlemen, the proceedings of the Legiſlature having been ſuch as I have ſtated to you, his Majeſty, in the exerciſe of his duty, as the grand conſervator of the public peace, directed a commiſſion to iſſue, to enquire whether any ſuch treaſons had been committed by any perſons, and by whom. In the execution of the duties of that commiſſion, a Grand Jury of this country hath declared, on their oath, that there is ground of charge againſt the perſon at the bar, and againſt others, ſufficient to call on them, on a trial to be had before you, their country, to anſwer to an accuſation for High Treaſon, in compaſſing his Majeſty's death.

I have ſtated theſe circumſtances to you in as ſtrong terms as I can, expreſſive of this obſervation, that no proceedings of parliament ought to have, and I am perſuaded, that no deliberation which they gave to the ſubject, had any influence on the judicial mind of a Grand Inqueſt; neither ought theſe proceedings to affect your enquiry, or induce you, in the determination which you are to make, on the iſſue you are now ſworn to decide upon.

Gentlemen, there is not one circumſtance of any proceedings before parliament, with reference to which you ought to ſuffer your minds to be influenced in the trial or deciſion of the caſe before you.

Gentlemen, it is obvious, that ſuch proceedings as were had in parliament, providing for great emergencies, may be required and authoriſed by the genuine ſpirit of the Legiſlature, even in caſes in which the Grand Jury would not be juſtified in finding a bill of indictment. It is much more obvious, that in a proceeding before you, the wiſdom and the propriety of the legiſlature is not at all involved. You, therefore, gentlemen of the Jury, will conſider the priſoner, as ſtanding before you, in the full poſſeſſion of an abſolute right to the preſumption of innocence, notwithſtanding his charge in this indictment; except ſo far as that preſumption is made by the ſimple fact that he hath been accuſed of by a Grand Jury of his country: and, before I conclude theſe obſervations, you will permit me to ſay, that, if there has been any thing that has fallen under your conſideration by acts, or publications, that may have turned, or made any attempt to influence your minds, or any thing that may this day fall from any of thoſe employed to try this grand cauſe, you will not ſuffer it to work any prejudice on your minds, either againſt the priſoner, or on the priſoner's behalf: on the other hand, I am perfectly ſure, that your integrity will be a ſecurity to the public. You will not let any attempt of that kind make any impreſſion on your breaſts; and, on the other hand, I need not aſk an Engliſh Jury to let them have any ſuch attempt to influence

ence them against the prisoner at the bar, nor an ill executed attempt to influence them in his favour.

Gentlemen, in order to understand the law of treason, as laid in the indictment, I shall take the liberty first to state to you the character, which, I apprehend, is necessary for the protection of those, whose person and government the statute avers it is.

Gentlemen, the power of the state, by which I mean the power of making laws, and enforcing the execution of them when made, is vested in the King; enacting laws in one capacity, that is, in his legislative character, by and with the advice and consent of the Lords spiritual and temporal, and Commons in Parliament, assembled in parliament, according to the law and constitutional custom of England; and in the other capacity, by executing the law when made, and himself subservient to the law when made, and acting with the advice thereof, when it hath been so made.

Gentlemen, the King's authority under the check, the constitutional and legal provisions and limitations, convenes and regulates the duration and existence of parliament; convenes those, which, according to the law and custom of the country, he is bound to call to attend the King in the parliament, sitting in his royal political capacity, and the Lords and Commons assembly, form the body political of this kingdom, by which is exercised sovereign authority and legislation. While the present law, the present constitution, and present government of Great Britain exists, no law can be made, but by that authority, no legislative power or authority can be created against the will, or in defiance of that authority, whether in any, or any where constituted. An attempt to create such a power is treason, by the statute of the 25th of Edward the Third, for as in the King the power of legislation is vested, so also is the executive power of government to be exercised with the advice of parliament, and to be exercised according to those laws which are the birth-right and inheritance of the subject. Having on him the care and protection of the community, to him, in return, also the allegiance of every individual, according to the law of England, is due; that allegiance, by which the subject is bound, in the language of the statutes of this country, to defend him against all traiterous conspiracies and attempts whatever, whether made against his person, crown, or his dignity; it ascertains to whom this care and protection is committed; it ascertains to whom this allegiance is due, the breach of which, according to the opinion of the venerable Lord Hale, constituting High Treason, is necessary to the peace of the community; it ascertains and defines accurately, what constitutes a breach of that allegiance, so essentially and absolutely necessary to the security of all that your ancestors have claimed, demanded,

demanded, and insisted upon, as the ancient undoubted rights, and liberties, of your country. The former of these objects is secured by the law and constitutional custom of England, that law which secures to you every right you have, whether of person or property. It hath made the crown which his Majesty wears hereditary, subject to limitations by parliament; and I beg your attention to that. The latter subject hath been most anxiously secured by the statute referred to in the charge, which brings forward the indictment which you are now to try. The King having this hereditary crown, the law and the constitution has also defined his duties, these duties which it is incumbent on him to execute for the benefit of his subjects, in the execution of which duty, they have aided him with money, and, in consideration of such service, they have clothed him with dignity.

Gentlemen, with respect to the duties of the King, they attach on him the instant he becomes such; so also, the moment his title accrues, the same instant the duty of allegiance from the subject, the breach of which is High Treason, attaches to him; he recognizes his duty in that oath which he is bound to take on him at his coronation, to promise, and swear to govern the people of this country, according to the laws and statutes in parliament agreed upon; mark the words, gentlemen, and the laws and customs of the same, that, to his power, he will cause law and justice, in mercy, to be executed; that he will maintain the laws of God, and the true profession of religion established by law. This oath, as stated by that great, venerable Judge, Justice Foster, is a public recognition, not only of the duties of the King, but the fundamental rights of the people, thereby being impressed on him; and throughout this case, it cannot be too strongly recollected that it imposes on him the most sacred obligation, to govern according to the laws and statutes in parliament assembled, and according to the laws and customs of the same, and no other. Addressing this Court, which is a Court of Law, in which you, the Jury, are sworn to make a true deliverance, according to the laws of England; can I impress it too strongly, and it cannot be supposed by possibility, that the King can, consistently with this oath, and with the antecedent duty, recognize any implicit engagement, and which the terms of it might engage him, either to act, or can he permit himself to act, according to the rules of government, by any bodies advice, assuming any character, functions, or situations; these rules of government being to operate as laws, the statutes agreed upon in parliament, and the laws and customs of the same, only excepted; this seems to be a necessary conclusion of reasoning, to be addressed to a court of law, that those that conspire, not to remove him out of the government altogether, if they conspire

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to remove him from that government, against that statute, if they conspire to remove him from the title, power, and government, which the indictment, you will find, presently mentions, it is to subvert and alter the rule and government now established in this kingdom; he ought not to so govern, he cannot so govern, he is bound to resist such an attempt at the hazard of all it's consequences. Resistance necessarily produces deposition, or it endangers his life.

To the king, on whom these duties are incumbent, the law and constitution, for the better execution of them, has assigned various councils, and responsible advice; it hath clothed him under various constitutional checks and provisions, with various attributes and prerogatives, as necessary for the maintenance of the civil liberty of the people; it ascribes to him sovereignty, imperial dignity, and perfection; and, because the rule of government, in this kingdom, cannot exist, for a moment, without a person filling that office, it ascribes to him also, that he never ceases to exist. In foreign affairs, he makes war and peace; in domestic concerns, he is a constituted part of parliament, he has power to raise armies, and is the great conservator of the public peace, bound to maintain and vindicate the greatest trust that ever was reposed in man; the fountain of honour, office, and power; the great arbiter of public causes, and the head of the national charge. I hope it will not be thought amiss my stating thus much, because it appears, that such are the duties and prerogatives that the sovereign has in this country, all existing for the protection and security of the people, in an established form of government. This accounts for the anxiety with which the law watches over his person; this accounts for the effect of even compassing of his deat hor deposition; as it seems to co-exist with an intention to subvert and alter the constitution, it appears to be a design to depose him, under which the constitution is, and by which the exercise of those constitutional powers, appears to be created.

Gentlemen, consonant with this, the tenor and language in the charge of every indictment, is most clearly expressed. Lord Hale says, that a more high offence cannot be, than that committed more immediately against the person and government of the King; I cannot state it more strongly to you, or from an authority whose authenticity will be less questioned by you, when I state to you the opinion of one of the counsel for my Lord George Gordon; indeed, it is no more than what follows the exposition of the law of England, as delivered by all it's great lawyers, when it states it's principle thus, to compass or imagine the death of a king; such intention or purpose, visible only to the great author of our being, must be manifested by some

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overt act; this is the definition obviouſly directed, not only to a ſecurity of his natural perſon, but to the ſtability of his government; the life of a prince being ſo interwoven in the conſtitution, that an attempt to deſtroy the one, is a rebellious conſpiracy againſt the other.

Gentlemen, it will be my duty to ſtate to you preſently what is the law of an attempt againſt the life of the King.

Gentlemen, it ſeems, therefore, that before the ancient laws of England were changed, which even in the caſe of a ſubject, held the intent to kill, homicide, as well as in any caſe of a king, the intent to kill or depoſe him, without the proof, the fact, where the meaſures were taken to effect the attempt, was treaſon; with a difference, however, as to the nature of the acts.

That is ſtated again in the words of the great and venerable authority; I mean, Mr. Juſtice Foſter, who ſays, that it was with great propriety that the ſtatutes of treaſon obtained the rigour of the law in its full extent in the caſe of the King; in the caſe of him, ſays he, whoſe life muſt not be in danger, becauſe it cannot be taken away by treaſonable practices, without involving the nation in blood and confuſion; levelled at him, the ſtroke is levelled at the public tranquillity. That I may be fully underſtood what it is that I have to contend for in the courſe of this trial, is to put you in mind again of that which I have before ſtated, that it is abſolutely and not leſs neceſſary to the ſecurity of individuals, than it is for the ſecurity of the nation at large, that the perſon and government of the King ſhould be ſecured; on the other hand, the crime of high treaſon ſhould not be undetermined, it ſhould not be left either undefined in the law itſelf, or in the conſtruction of that law; this is not to be collected merely in this country from reaſonings at this time, obvious enough to be ſo collected, for the experience of your anceſtors has informed you; and I beg to impreſs it on your minds in what is to be found in their annals, in which no man knew how he ought to ſpeak or to ſay without ſuſpicion of high treaſon, in the anxiety which the preamble to the ſtatute of Edward III. expreſſes, and the expreſſive language which your anceſtors uſed, proves when the proviſion of that ſtatute was firſt inſtituted, in the code of laws under which we all live.

Gentlemen, I admit too that it may ultimately ſave your time, that I treat the ſubject thus on the outſet of it; that before this ſtatute was made, on which the indictment now before you proceeds, this neceſſity for the ſecurity of the ſubject was not ſufficiently provided for; and I ſay yet, with that ſtatute in our code, with thoſe who ſay it is not ſufficiently provided for, if any conſtruction is given to that ſtatute which the legiſlation did not intend it to receive; it is neceſſary on theſe heads to trouble you

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with ſome, though few obſervations. That the law of treaſon ſhould be determined and certain, is not more neceſſary for the ſecurity of the public, than that there ſhould be a law of treaſon, and that it ſhould be faithfully, fully, and firmly executed. Every ſtatute muſt have ſome form or regimen of government; it muſt be determined by whom, and under what mode the ſovereign power is to be, and exiſt in the country, under which all are to be ſubject. No government can exiſt, except this power is placed ſomewhere; and an attempt to ſubvert that power is an attempt on the eſtabliſhed law. It is alſo neceſſary, that an attempt of that ſort ſhould be guarded againſt being too ſeverely handled. The offence againſt particular laws does not involve the deſtruction of the ſtate, the deſtruction of all laws, but which leave laws for the ſufficient protection and ſecurity of liberty and happineſs.

This is alſo the reaſoning of that great Judge Hale, who ſays, that the greatneſs of the offence, and the ſeverity of the puniſhment on high treaſon, is, becauſe the ſafety, peace, and tranquillity of the kingdom is highly concerned, and the ſafety and preſervation of the perſon, dignity, and government of the King; and therefore the laws of the kingdom have given all poſſible ſecurity to the King's perſon and government, and puniſhes any attempt againſt it with the ſevereſt penalty.

To deſcribe this great offence is what the legiſlature in King Edward the Third's time, propoſed to perform, when they enacted the venerable and reverend ſtatute on which this indictment is founded, made for the more preciſe definition of this crime, as was ſtated again by the authority of council; it was defining that which by the common law had not been ſufficiently extended in the plain unextended letter of it. You will mark the words, they are theſe; It was made becauſe the common law was not found to be a ſufficient protection to the perſon and honour of the ſovereign; but not only to the perſon and honour of the ſovereign, but alſo an adequate ſecurity for the laws committed to his execution.

In addreſſing a Jury in a Court of Law, ſworn to make deliverance according to that law which conſtitutes the ſeat in which they ſit, there are two propoſitions which appear to be clear in this; the firſt is, that I ought not, that I cannot dare to call you to think, that I cannot dare to think of it myſelf, to ſay that there has been committed, under this ſtatute, any offence, if the facts of the caſe to be laid before you, by the plain manifeſt authorized interpretation of the ſtatute, does not conſtitute an offence under it; if the ſtatute ſhould ſeem to any man, or to you, not to be a ſufficient and adequate ſecurity to the perſonal honour of the ſovereign, in the due execution of the laws, he has, nevertheleſs, all the ſecurity which the law hath authorized

you

you to give him, and God forbid that you ſhould think of giving him any more; on the other hand you are bound by your oaths, if this law has been violated, and if the fact of violation is proved by evidence, convincing in its nature, and ſuch in its form that the law requires, for the law in this caſe requires not only convincing but formal inquiry; and if the evidence be ſuch as the law requires, in evidence and form, you are bound to give to the priſoner that verdict which the ſtatute violated would give, and which the ſtatute intended ſhould be given.

Men of honour and conſcience acting under the ſanction of a law, though of different opinions, it muſt take them to the ſame concluſion whilſt judging of the ſame facts by the ſame law, whatever the principles of government may be, however they may differ in the effect of the facts laid down. In the trial of a perſon whoſe name I ſhall have abundant reaſon to mention to you in the courſe of theſe proceedings, The author of the Rights of Man; it was judiciouſly, truly, juſtly, and ſtrongly admitted in fact, that if the Jury had been compoſed of, that is, if there were twelve ſuch men of this country, republicans, wiſhing to act from conſcience, and from the nature of their oath, which is to give a verdict according to the law, if they were convinced that the crime had been committed, no man would have the audacity to ſay, that they would be capable for a moment of not coming to the concluſion, which the facts call for, on the law that they are ſworn upon.

The preamble to the ſtatute on which this indictment proceeds, is to the following effect; it ſtates, and it ſtates moſt truly, that divers opinions had been had before this time, that is, the time of the 25th of Edward III. in what caſes treaſon ſhould be ſaid, and what not; the King at the requeſt of the Lords and Commons, has made a declaration, that it ſhall be treaſon to compaſs or imagine the death of our Lord the King. Or if any man do levy war againſt our Lord the King; or if any man be adherent to the King's enemies in his realm, giving them aid and comfort in the realm or elſewhere, and thereof upon ſufficient proof be attainted; by which words is underſtood to be attainted by evidence; be attainted of open deed by men of his own condition. And then, gentlemen, there is this, to which you are bound to give your attention for the ſake of the priſoner, as well as for the ſake of the public, the intereſts of both are blended in this: the act further ſays, becauſe many other like caſes of treaſon may happen in time to come, which cannot be thought of nor declared at preſent, it is accorded, that if any other caſe ſuppoſed to be treaſon, which is not above ſpecified, doth happen before any Judge, the Judge ſhall tarry without going to judgment for the treaſon, till the cauſe be ſhewed and declared

before the King and his Parliament, whether it ought to be judged treason or other felony.

I desire to point out here, in the most marked way in which I can state, the anxiety with which the parliament wished to reserve to itself the judgment of treason, not being treasons specified in the statute, but being like treasons, they would not trust the subject to any court of justice on that point but themselves; it gives an authenticity to the law of England, on the case of treason, a degree of authority that does not belong to decisions in courts of judgment on any other case whatever.

Gentlemen, having read the statute to you, it is not unimportant as it seems to me, to observe that Hale and Foster, who have stated the judicial and other expositions of this statute, have stated them, and expounded the statute under the weighty conclusion which they most powerfully claim, against extending this statute by parity of reason; this circumstance alone appears to me to give infinite authority to it, the exposition which they state of it as found and as being according to the interpretation of it, which the legislature in Edward the third's time meant to give to it.

Gentlemen, it may save your time, and that of the court, if I trouble you here by reading the language of my Lord Hale, the language which he holds as describing the necessity which courts of justice are under to construe it under the real specified treason, without parity of the construction as to the treason itself, when they come to construe it. Lord Hale states it thus: Now, says he, the crime of high-treason is the greatest crime against the faith and duty we owe to the sovereign and to human society, and brings with it the greatest and most fatal dangers to the government, as well as to the peace and happiness of the kingdom or state, and is therefore deservedly branded with the highest ignominy, and subject to the greatest penalties. Yet by these he instances, those laws which were before the statute of the 25th of Edward III. or the first of Henry IV. and therefore he adds, yet it appears how necessary it was that there should be some settled boundary for the crime of treason. How dangerous it is to depart from that statute, and not to multiply and enhance crimes into treason by ambiguous words; and how dangerous it is by construction and analogy, to make treasons where the letter of the law has not made them. In another passage, after having given his comment on this starute, after having stated what are the acts which fall within the letter of it, and the sound interposition of it; he says, that the great wisdom and care of Parliament has been to keep judges within the boundaries and express limits of this act, and not to suffer them to run beyond it.

I am persuaded as those were persuaded that conducted the defence

defence of my Lord George Gordon, that we live in days in which the judges of the country have neither inclination nor courage to ſtretch it beyond its limits; and thoſe who dare to ſtate it in any place in which they are not authoriſed to ſtate it in, do not that juſtice to the country which is due to every individual.

Gentlemen, having ſaid thus much, I now ſay, in order to be perfectly underſtood, that I do moſt diſtinctly diſavow making any charge of conſtructive treaſon; that I do moſt diſtinctly diſavow ſtating, in this indictment, any like caſes of treaſon, not ſpecified in this ſtatute; I do now moſt diſtinctly diſavow ſtating accumulative or analogous treaſon. I do moſt diſtinctly diſavow enhancing by parity of reaſon that into treaſon which is not ſpecified in this ſtatute. And the queſtion between us appears to be diſtinctly this, whether the defendant is guilty of a treaſon ſpecified in the ſtatute, and whether the evidence that is to be brought before you amounts to that proof, ſatisfactory to your minds and conſciences (your minds and conſciences being prepared to admit no proof but what you ought to receive under the obligation of an oath) of treaſon of an open deed ſpecified in the ſtatute.

Gentlemen, the indictment charges the defendant with compaſſing and imagining the king's death, and with having taken meaſures to effect that purpoſe. That I may be thoroughly underſtood, you will permit me to ſtate here to you, that there is not only a manifeſt diſtinction, but a ſettled diſtinction, in the courſe of judicial practice in treaſon, ſettled for no other cauſe, but that there was a manifeſt diſtinction in treaſon, between like treaſons, conſtructive treaſons, like caſes of treaſon, analogous or accumulated treaſons, or various overt-acts of the ſame treaſon.

Gentlemen, the buſineſs before you is, whether the acts laid, or overt-acts of treaſon, ſpecified in the ſtatute and ſpecified in the indictment, amounts in all their circumſtances to open deed done, by which a perſon may be probably attainted. The ſpecified treaſon is the queſtion that a Jury is to try. To explain myſelf on this: I take it to be clear, and I will not in this ſtage of the buſineſs, enter into the diſcuſſion of what I call the clear and eſtabliſhed law of England concerning treaſon, becauſe I will not in a caſe of high-treaſon urge the matter any more than I would about a crime committed againſt any other ſtatute. I will not enter into the diſcuſſion on what is taken to be the clear and eſtabliſhed law of England, that which not only ſecures the ſubject in this reſpect, but without which no power can be ſaid to exiſt. But I am authoriſed to ſtate to you, that the form in deciſions, which for centuries have prevailed, are to be taken to

be treasons from the established law of the fact; for instance, deposing the King, entering into measures for deposing the King; conspiring with foreigners to invade the King, going to a foreign country to give invitation for the purpose of invading the King, conspiring to raise an insurrection, either to dethrone the King, or to imprison the King, or to oblige him to alter his measures, or to remove his Counsellors, have been held from the established law of the fact, and by decisions heretofore in Courts of Justice to be treason; and, that those who intend to do so have been guilty of overt-acts of treason to compass the King's death; and who will suppose that they were not acting under the influence of that weighty memento, which, they knew, ought to guide those who are to succeed them in the seats of judgment. Yet I give you this in their very words, which have concurred with Parliament into the bargain, in the construction and exposition of the statute, that all these things are overt-acts of the same treason that is specified in the Act of Parliament, because the law says, that he that does that which may endanger the King's life, the law holds him encompassing the King's death; if in the ordinary course of things, the measure which he takes is in pursuance of the purpose which, first affecting the King while he lives, in the ordinary course of things, will bring him to his grave when he dies. This is not raising constructive treasons; this is not raising treasons by analogy; this is not raising like cases of treason; it is stating overt-acts of treason, which are measures taken in pursuance of the treasonable purposes intended: which measures may necessarily be as various in their kind, nay, must necessarily be as various in their kind as the ways and means of which any facts and open deeds of the human heart can manifest itself to commit some one or other treasons mentioned in the statute.

Gentlemen, I observed it to you that Courts and Juries have constantly done this in the execution of the statute under which this indictment is framed; if therefore they have done wrong in doing this, if the interpretation they have made of the statutes are not right, if they have done it against the approbation of the statute, they have done it in the presence and under the eye of the parliament, which have expresly forbidden them to do it, the conclusion on that is, they have done it right.

Gentlemen, the courts of law argue uniformly with acts of parliament in this country; acts of parliament have been made over and over again, to bring them back again to the statute of EDWARD III. but we have lived to this hour and cannot find that they should say that the overt-act should not be taken to be an act of high-treason within the statute, because the statutes do not mention the various manners by which the human heart may shew its compassing of this purpose.

Gentlemen,

Gentlemen, but this is not all, becauſe what one ſees charged is not only according to the laws of England; but the proceedings in parliament are a parliamentary expoſition, if I may ſo call it, where the ſtatutes have been thus conſtrued, and where this diſtinction between the overt-acts, in like caſes of treaſon, have been acted upon, propoſed by one houſe to the other, and acted upon by the crown in executing the ſentence. Gentlemen, the diſtinction then only is, a like caſe of treaſon, is a caſe not ſpecified in the ſtatute, but a caſe productive of like miſchief ſpecified in the ſtatute, but a like caſe of treaſon before it be proceeded upon muſt be ſhewn to parliament.

But the facts, the open deeds, alike in nature and tendency, but various in their circumſtances, may prove the ſame intention to exiſt in the minds; that there may be many meaſures to execute the ſame treaſon, and the like treaſon, appears in my mind to be obvious.

Gentlemen, I conceive what the treaſon law ſays is this, whether the jury are fully ſatisfied about the evidence by which they can probably attain to the concluſion, that the act laid is an overt-act of compaſſing the particular ſpecified treaſon, whether meaſures are taken in purſuance of and to effect that which is ſpecified in the Indictment.

Gentlemen, I profeſs for myſelf I am ſorry to trouble you thus much at large; but you will find it hath an application and a cloſe application to the cauſe I have to lay before you; this is an important public cauſe, and therefore we ſhould thoroughly underſtand it. I do not know what a conſtructive overt-act is; but I do underſtand conſtructive treaſons, levying war againſt his Majeſty, without declaring it to be levying war againſt his perſon, is conſtructive treaſon; as when men do that which will eventually affect the King's life, as levying war, or pulling down priſons or other houſes, are conſtructive treaſons, they are levied againſt his royal Majeſty, and it hath been held as conſtructive treaſons by the deciſions of judges of the higheſt character; this hath been permitted to be proceeded upon as ſuch, many had been convicted on them, execution hath followed, and no one hath ever doubted either the law or the juſtice of theſe determinations.

Gentlemen, but as for conſtructive overt-acts of compaſſing of the King's death, where the indictment lays the overt-act, the compaſſing the King's death, the ſtep taken muſt be ſuch a deed deliberately done as muſt ſatisfy deliberately the Jury, that there was an intention of depoſing or putting the King in ſuch circumſtances, according to the ordinary courſe of mankind, ſo that his life would be in danger.

Gentlemen, I before ſtated to you for another purpoſe various acts,

acts, which are acts of compassing the King's death. I will again repeat them to you, from that great authority Mr. Justice Foster, deposing, entering into any measures, conspiring to imprison the King, which you observe may be done without an actual intent to put him to death, is treason; but you find the reason why that is held to be compassing the King's death, with the sanction of all times, and various species of authorities that the country could give, was because it was a design to get his person into the power of the conspirators, because the course that the law has taken is not confined to attempts of any flagitious kind, as poison, assassination, &c. but the law has extended it to every thing wilfully and deliberately done or attempted, whereby his life may be in danger, and therefore entering into measures for deposing or imprisoning him, or to get his person into the power of the conspirators, this offence was an overt-act of treason within this statute, for, says he, experience has shewn that between the prisons and graves of Kings the distance is very small, and experience has not grown weaker in the history of these modern times.

My Lord Hale also says this, that, though the design of the conspirators is not directly and expressly the death of the King, but something that in all probability will induce it, this is an overt-act of compassing the King's death.

The instance he gives is this, if men conspire to imprison the King by strong hand, or by force, or even write letters for that end: this is an overt-act of treason.

What is the reason he gives as the same in effect, though not in terms, as that given by Foster, who says it is in effect to despoil him of his kingly government; and all experience gives to see, that the reason given by Hale and Foster are the same, although the terms are different. Imprisonment is the same as deposition, and he that compasses deposition of the King compasses his death. It is the same as deposition because it is a temporary deposition of his kingly government, which according to this interpretation of the law usually ends in his death.

Treason, with regard to adhering with foreigners, is thus constituted: that if foreigners are not at war with you, the offence consists in going into a foreign country, or purposing to go there in order to invite force into this kingdom; this can only fall within the branch of treason, that branch of compassing the King's death. If they are at war with you, it amounts to another species; it is adhering to the King's enemies.

Gentlemen, having stated this much, I proceed now to consider the indictment, and I have stated it to you for that purpose, before I mention the substance of the indictment, as laying my claim to full credit with you that no man living can state it to you more

strongly

ſtrongly than I wiſh to do, that we have all as great an intereſt in the true conſtruction of this law as any man can have, that I may at once repel from myſelf, the ſuppoſition, that I mean to extend the law of treaſon in the charge that I have now brought before you, one ſingle iota beyond what I conceive to be the eſtabliſhed law in this country, as the law is that ſays, the property you bought yeſterday you may give to whom you pleaſe to-morrow.

Gentlemen, the indictment finding ſeveral perſons, in effect to be tried ſeparately, though indicted jointly, combined in a particular act, which I will ſtate to you by-and-by, has charged them generally with compaſſing the king's death; it has then proceeded to charge them with meeting among themſelves to cauſe and procure a Convention of divers of his Majeſty's ſubjects to be held within the kingdom, and it not only ſtates that the Convention was to be held within the kingdom, but to be held with the intent and in order that the perſons to be aſſembled at ſuch Convention and Meeting ſhould conſpire, and agree to meet wickedly and traiterouſly, without, and in defiance of the authority, and againſt the will of the parliament of this kingdom, in order to ſubvert and alter, and cauſe to be ſubverted and altered, the legiſlative rule and government eſtabliſhed in it, and to depoſe the King from the royal ſtate, title, power, and government of this kingdom.

It then charges them for having publiſhed divers books, pamphlets, letters, orders, declarations, addreſſes, and writings, purporting and containing incitements, encouragements, and exhortations to perſuade the ſubjects of the King, to depute or cauſe to be deputed, and ſend perſons as delegates in a Convention, but ſuch a Convention and Meeting to be held for the traiterous purpoſes before mentioned.

The third overt-act charged in this indictment is, that they had conſultation among themſelves, how, when, and where, ſuch Convention ſhould be aſſembled and held, and by what means the ſubjects of the King might be induced and moved to ſend perſons as delegates to the ſame.

And it then charges, that theſe perſons did conſent and agree that Mr. Joyce, and ſeveral other perſons, named in the indictment, ſhould meet, confer, and co-operate among themſelves, and together with divers other traitors, whoſe names are to the Jurors unknown, for and towards the calling and aſſembling ſuch Convention and Meeting. It then charges the providing themſelves with arms of different deſcriptions, for the purpoſe of arming divers ſubjects of the king for the ſame purpoſe as before mentioned.

And then it charges them with conſpiring and agreeing among

among themselves to make war in the kingdom, and their conspiracy is stated to be to subvert the legislature, rule, and government of this kingdom, and to depose the king. From the indictment, therefore, you will have to form a conclusion, and if you shall not be satisfied that the calling of such a Convention was a means to effect that compassing and imagination, yet you will find, in the evidence that is to be laid before you, even if you pay no attention to that circumstance, you will find sufficient evidence of a conspiracy to depose the King. It then states again, that they published several books and other matters for that purpose; and it also charges them with a further overt-act, providing arms for that purpose.

Gentlemen, now having stated before you, that a conspiracy to depose the King, and not stated it to you in my own words, that a conspiracy to depose the King, to imprison him, or to procure an invitation thereto, with steps taken to effect such a purpose, is treason. You will find that a conspiracy to depose the King is expresly laid in this indictment, which will be clearly proved to you; and if a conspiracy to depose the King be an overt-act of high-treason, permit me then to ask you, what can a conspiracy be, to subvert the whole government, including in it the deposition of the King; to subvert the monarchy of the country? What can it be, but high-treason? In the object of such a conspiracy the whole of the state is included, in which the King is necessarily involved, because he is necessarily a part of it; and it is already shewn, that conspiring to depose him, is compassing his death.

Gentlemen, read, as you are, in the history of your country, give me leave to ask you, if measures had been taken, after the Revolution, to effect a conspiracy, to dethrone King William, and restore King James, the conspiracy would not have constituted the class of high-treason, although not actually meaning the death of King William? The law says, you cannot mean to dethrone a King without meaning to endanger his life.

Gentlemen, if the project had been to depose the same King William, and measures had been taken on it, not with a view to bring back to the throne James the Second, but merely to send back King William to his former character, the Prince of Orange, and not to restore King James, but to restore a Commonwealth, to restore what they meant that are charged in this indictment. If it was said, that these people meant a full and fair representation of the people, can a lawyer be found who will say that the guilt of high-treason would not have been incurred.

The Attorney General then stated, there could not be two sovereign powers in any state; there might be two numbers, making

making and constituting a sovereign power. If there had been a Convention, as was intended, to compel the Legislature to alter the law, either one or the other must fall; either the King and his Parliament must be obedient to the meeting, or the meeting be obedient to the King and his Parliament. He thought they would find that the whole of the plan of the Convention was to alter the whole form of the government of this country, and to establish a form of government founded on the unalterable and imprescriptible rights of man, together with Universal Suffrage, Annual Parliaments, &c. The indictment stated, that this Convention was meant to carry every thing by force, and the fact was, that the application to Parliament was intended only as a colourable thing, and done with a view of having the application rejected; there was a certain use to be made of that circumstance. To compel the King in the exercise of the highest and most essential act of his function, surely was treason, if any thing could be so; it was encompassing his death, for his death was almost sure to follow his refusal, if the party opposing him had the power; but whether they had the power or not, was a matter of no importance in the discussion, for the intention constituted the guilt after an overt act was proved to manifest that intention. The Jury might possibly reason in this way:—When the indictment stated that a few individuals had formed an idea of deposing a Monarch, reigning in the hearts of a great majority of his subjects—what was the evidence of the probability of success? The question was not here, whether their means were adequate to their end, and whether they had reason to think so, but what their intention was. If the Jury should be satisfied that they had that end in view, and attempted to carry it into effect, then they must be found guilty of Treason. He then took notice of the progress of the French revolution and the cause of it, in the course of which he maintained that the different societies of the kingdom were connected with affiliated societies in France, and that the addresses, penned chiefly, he said, by Mr. Tooke, with whom the Prisoner, Mr. Hardy, was connected, and adopted by the different societies, had some effect in producing the decree of Fraternization in the French Convention, and by which they declared war against every state that would not adopt their principles, and called on the subjects to rebel against their lawful sovereigns, to depose and murder them as the French had done their Monarch. He then proceeded to read the different papers of the society, and maintained that they proved from the vote of approbation of Mr. Paine's Rights of Man, the First and Second Part, and above all the

Addreſs to the Addreſſers, the publiſhing of which he conſidered to be High Treaſon of itſelf, but as others doubted it, the book was only treated as a libel. He then went through the whole hiſtory of the London Correſponding Society, the Society for Conſtitutional Information; the Sheffield, Mancheſter, and other Societies mentioned in the Reports of both Houſes of Parliament, by the Committees of Secrecy. He read almoſt all the papers of theſe ſocieties, and maintained that from the tenor of them, the intention of the members who compoſed and publiſhed them was nothing leſs than what the indictment imputed to them, that of altering the government of the country, and to encompaſs the death of the King.

The Attorney General then proceeded to the hiſtory of the Scotch Convention. What he firſt remarked were the inſtructions given by their ſocieties to their reſpective delegates. By theſe inſtructions they were directed to contend for the adoption of annual Parliaments and univerſal ſuffrage, and to act on the ſame principle of reſiſtance to the great majority of the nation, which had already diſcovered itſelf in their former proceedings. That principle of reſiſtance, it appeared from the ſubſequent conduct of the delegates, that they had carried even farther than they were warranted by their inſtructions. But the reſponſibility of the perſons concerned in thoſe ſocieties, reſted not merely on the inſtructions which they had originally given, ſince they had afterwards, from time to time, communication with their delegates, in which they highly approved of all their proceedings, and thus made them, as it were, their own acts. This was particularly the caſe with reſpect to the priſoner at the bar, who, at different times, wrote to the delegates, as ſecretary of the London Correſponding Society.—In confirmation of theſe remarks, he read ſeveral letters from the ſocieties in England, addreſſed to the Convention at Edinburgh.—He then proceeded to notice more particularly the circumſtances in which that Convention met, and the manner in which they had conducted themſelves. Mr. Skirving ſent a circular letter to the ſocieties in England, inviting them to ſend delegates. After they had met, one of their firſt meaſures was to ſtile themſelves the Britiſh Convention of the Delegates of the People, for the purpoſe of obtaining Annual Parliaments and Univerſal Suffrage. Thus they were not content with ſtiling themſelves the delegates of their own ſocieties, but aſſumed to themſelves the title of the delegates of the people; thus concentering in themſelves the functions, and arrogating the authority of the repreſentatives of the nation. In the exerciſe of their newly uſurped authority, they propoſed an act of union, not between their own

reſpective

respective societies, but between the two nations, England and Scotland. They immediately, in order to shew their temper, began with adopting French practices. They divided their societies into sections, the nation into departments; they had their patriotic gifts, their committee of secrecy, &c. They came to a resolution, that in case of a Convention Bill, similar to what had passed in Ireland, being proposed in this country, or of foreign troops being landed, or in the event of an invasion, they should immediately repair to the place that the Convention should appoint; that the first seven members should declare the sitting permanent, and that twenty-one should proceed to business. Thus they were not to wait till a Convention bill should be passed, but to consider even the circumstance of Parliament proceeding to agitate such a measure as a signal for open resistance. And when they talked of assembling in the event of an invasion—coupling this resolution with their former expressions, of their desire to co-operate with the French in the cause of freedom, with hands, violence, and troops; what interpretation could the Jury put upon their conduct? But there was another circumstance on this head that required to be attended to, and which certainly appeared of a nature extremely suspicious. They mentioned that there were some of their resolutions, which in the circumstances of the time it might not be safe or prudent to publish. Accordingly, in the letter which they sent to Mr. Hardy, giving him an account of their transactions, no mention was made of that part of their resolution to assemble in the event of any invasion; this was a circumstance which they certainly might be apt to suppose that they could not safely publish. The violent and illegal proceedings of the Convention at Edinburgh, at last called for the interference of the magistrates; and the members on that occasion had certainly been treated with a much less degree of severity, than in his opinion had been fully warranted by their conduct. Their dispersion did not, however, induce the society to lay aside their object. They were sensible, that if they were desirous to carry their views, it was necessary that they should again undertake the same work at the same hazard. Accordingly they began to concert the means of assembling a Convention in this country. But first, in order to put in a more strong light what their views were, he would read some of their own letters. He then read two letters of Margarot to Hardy, in which he states, that the cause is in great forwardness in Scotland, that nothing but sufficient supplies of money are wanting, in order to avow their views with success, and that a very short time indeed will be sufficient to put things in such a train

as will completely exclude the possibility of a failure. In another, he talks of Sinclair having gone to Perth on very urgent business.

The Attorney General called the attention of the Jury to another circumstance, of Sinclair having come to town, from Scotland, just at the time, when it was stated in their letters, that there were some things which might be improper to commit to paper, and who, of consequence, might be inferred to have been sent for the purpose of communicating this secret intelligence. He then read a letter of Hardy, in which he mentions a report of fifty sail of French ships having been seen at sea with a number of transports; and infers from the circumstance, the probability of an intended descent: he concludes the letter, with an exhortation to fresh ardour and perseverance in the cause of freedom. How comes it, said the Attorney General, that this mention of a French descent is so closely followed by an exhortation of this nature? Is it to be inferred that the two ideas were connected in the mind of the writer, and that the prospect of a French descent gave them additional spirits, and taught them to look to a more speedy accomplishment of their views? Having brought forward so many written documents, he would only state to the Jury, that they would find in the evidence which would be given, a sufficient confirmation of all that he had read, and from that evidence, would be able still more fully to form their own judgment upon the whole of the facts. At the commencement of 1794, the views of these societies began still more to develope themselves, and to assume an air of greater boldness. He then went into a long recital of the proceedings at the dinner at the Globe Tavern, and of the meeting at Chalk Farm. He adverted to the circumstance of Margarot having written a letter to Hardy, in which he tells him that some strong resolutions were wanted. This desideratum was quickly supplied; the dinner at the Globe Tavern produced some strong resolutions indeed! In these resolutions they treat the government of the country as plunderers, enemies, and oppressors, to whom it would be in vain to apply, and from whom they have no redress to expect. Indeed the reasoning upon the paper is so entire, its expressions of hostility to the Constitution are so decided, that it is impossible for any ingenuity to surmount its contents. Of this paper they ordered 100,000 copies to be printed and distributed. The toasts which they adopted upon this occasion breathe the same spirit with the resolutions to which they are attached. Among others he enumerated the sentiment of "Success to the Arms of Freedom, against whomsoever directed." The application of this phrase was

 obvious

obvious with respect to his Majesty. Their previous declaration to the French "that if ever the Elector of Hanover should forget that he was King of England, they would know what conduct to pursue," was not to be forgotten on this occasion. At this dinner also they expressed their approbation of a character who had so far satisfied the justice of his country, as he had already suffered the punishment inflicted for his offence against it—he alluded to Mr. Frost, whose health was drunk, and drunk, no doubt, from an approbation of the sentiments he had expressed, "No King, no parliament; Liberty, Equality." He then read the letter from Martin, who was chairman, giving an account of what had passed at this dinner. It was in vain that they continually affected to make use of the phrases Legal and Constitutional, while the things which they did, as well as the manner in which they were done, were clearly illegal and unconstitutional. In all the transactions of these societies which he had occasion to mention, it would afterwards appear from the evidence, that the prisoner at the bar had been the most zealous and active.

Gentlemen of the Jury, continued he, if I succeed in proving this—that means have been taken by one meeting to concert another, in order to supersede the functions of the Legislature, even though I should stop, I have proved here enough for my purpose. In such a case the King is bound to prosecute by the oath which he takes at his coronation; by the duty which he owes to his subjects; by his regard to the stability of his own throne. In fact, the question is neither more nor less than whether he shall himself continue to reign, as the existence of his power is essentially involved in a conspiracy, which strikes at the very root of the constitution, and threatens equally extermination to all its branches. The meeting at Chalk Farm was evidently only a step preparatory to the assembling the proposed Convention. It was intended to sound the temper of the people, and ascertain how far they were prepared to enter cordially into the views of these societies. It is of extreme importance to attend to the measures that preceded this meeting, and the circumstances with which it was accompanied. They carry with them an air of concert and preparation, which could only be the effect of deliberation and time. On the same day, meetings in the open air took place at Leeds, Wakefield, Newcastle upon Tyne, &c. The prisoner sent a circular letter for the purpose of calling together these Conventions. In this letter he assumes a tone of greater boldness than before he had been accustomed to employ. The critical moment, he affirms, is at last arrived; formerly they had agreed to meet only on the eve of passing a Convention Bill, but now that moment is anticipated.

He

He ſtates that there is a central ſituation in view for the purpoſe of holding the general Convention, but he forbears to mention the ſpot till he has conſulted the Societies. Was this then a Convention of the People, or was it a Convention in which the particular object to be ſtudied, was the convenience of thoſe Societies? Thus it is, that while they hold themſelves out as for the People, we find them always acting from themſelves. He recommends to them to adopt an example of the Correſponding Society, in appointing a Secret Committee to conſult upon all matters relating to this Convention. There remained only one other point, and on that he would but ſlightly touch, as it would be better eſtabliſhed by particular proof—he meant whatever related to the ſubject of actual military preparations that had been made by theſe Societies. And it was ſurely rather a ſingular fact, that in different parts of the Kingdom, London, Sheffield and Edinburgh, there ſhould have been found arms of a peculiar conſtruction, and which of late years had been heard of only in France. It ſeemed probable that in conſequence of the diſperſion of the Britiſh Convention, perceiving they could no longer truſt to the effects of naked numbers, they deemed it neceſſary to have recourſe to arms. There were ſome circumſtances from which indeed the charge received a high degree of probability. Could a ſuppoſition of this kind be too harſh, when there appeared on the ſecret records of the Correſponding Society, a reſolution for guillotining George's head in a baſket?—thus ſhewing a diſpoſition to ſtrike at the ſacred perſon of Majeſty. Mr. Thelwall, after the meeting at Chalk-Farm, took up a pot of porter, and cutting off the froth with a knife, ſaid, "Thus would I ſerve all Kings." Mr. Yorke ſtated, "That he was going to Belgium in order to bring to this country the true Defenders of Liberty." We find, indeed, the Society at Sheffield purſuing the ſame objects by the ſame means as the Correſponding Society, with an exactneſs which cannot but appear to be the effect of concert. We find the moſt active members of both Societies directing and ſuperintending the fabrication of Pikes. We find the Society at Lambeth practiſing military exerciſe, and ordering a plate, repreſenting the different poſitions and manœuvres, to be actually engraved for their own uſe. The Priſoner at the Bar gave directions for guns and pikes to be made for theſe Societies, and previouſly ſtipulated that the perſon who was employed to make them, ſhould become a member of the Society. I wiſhed only to give this general idea of the ſubject, becauſe it is of that nature which will be much better ſubſtan-

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tiated by particular proof. But if you, Gentlemen, find persons of a lower order talking of seizing august personages, if you find them talking in a stile of the most contemptuous rudeness of the characters of respectable Members of the Legislature, and of having the means of watching and controulling their motions, you must then draw your inferences for yourselves. With respect to the witnesses, whom I shall have occasion to call, some of them are persons who were Members of these Societies; others, I must confess, were employed by government for the purpose of mingling with Members of those Societies, and watching over their operations. Indeed I should have considered it as an instance of neglect equally dangerous and criminal on the part of government, if knowing that there existed such Societies who were actuated with such designs, they had not taken some means of precaution in order to defeat their mischievous intentions. It is the great province of a British Jury to sift out the truth by every possible means of investigation; to dismiss all prejudice—but at the same time to be on their guard against imposition. In this point of view the character of the witness is certainly of some importance with respect to the credit to be given to his testimony; you will of course listen with some degree of suspicion to the evidence of the persons employed for the purpose of discovering the designs of these Societies; and in proportion as you find it corroborated, by similar evidence from those whose character affords no such ground for distrust or prepossession, you will be able to appreciate the weight which it ought to have in influencing your decision. There is one circumstance which I forgot to mention, that previous to the steps taken to prevent the designs of those Societies from being productive of further mischief, and bringing to trial their most active Members, in order the better to promote their views, they were engaged in forming for themselves a new Constitution. Of the necessity to preserve the respect due to public justice, I need not remind you; miserable indeed would be the situation of the country, if that respect were either weakened or lost. If you shall find that the fact charged against the prisoner, and substantiated by evidence, amount to the crime of High Treason, you will then, no doubt, by your verdict, discharge what you owe to your country, your posterity, and yourselves; but if, after the case being fully stated, and attempted to be proved, you shall be inclined to form a contrary judgment, I have discharged my duty, and have only to join in the prayer, " God send the prisoner a good deliverance!"

After

After the Attorney General had concluded his ſpeech, an intermiſſion of reſt took place for about twenty minutes, during which period the priſoner was accommodated with ſome refreſhment.

At half paſt ſeven o'clock the Court was reſumed, and the evidence commenced; Thomas M'Lean, John Gurnell, and Edward Harpur, King's meſſengers, depoſed as to the facts of apprehending the priſoner, and the ſeizure of his papers, which were identified.

Mr. Law, for the Crown, proceeded to examine evidence.

Thomas M'Lean, a King's meſſenger.

Q. Did you at any time ſeize any papers from the priſoner?

A. Yes; on the 12th of May laſt I ſeized ſeveral books and papers at the houſe of Mr. Thomas Adams, in Took's-court.

Look at the letter.

A. It is one of the papers which I ſeized.

Alexander Grant.—Q. Do you know the priſoner?

A. Yes.

Q. Have you ever ſeen him write?

A. I have.

Q. Look at the letter. Is it the priſoner's hand-writing?

A. I cannot ſwear to it.

Q. Do you believe it is?

A. I again ſay, I cannot ſwear to it.

Q. I only aſk, do you believe it to be ſo?

A. I think it is.

Mr. Shelton read the letter, March 22, 1794, ſigned T. Hardy, Secretary, directed to Mr. Thomas Adams, Secretary to the Conſtitutional Society. It conveys the ſtrong reſolutions entered into by the Correſponding Society, and has this paſſage in the letter: "*The moment is now arrived* whether we ſhall abandon our cauſe, or purſue our purpoſe of a radical Reform, by immediately aſſembling a Convention."

John Gurnell, a King's meſſenger, proved, that he went to the houſe of the priſoner on the 12th of May, 1794, in conſequence of a warrant which he received at the Secretary of State's office, and ſeized ſeveral papers which he found there in a back room. The witneſs marked all the papers.——Papers read.

Mr. Grant called.—Q. Do you believe that paper to be the priſoner's writing?

A. I cannot ſwear ſo, but I believe it.—That will do.

The paper was then put in and read.

Mr.

Mr. Maclean produced another paper, dated April 10, 1794, a letter to Citizen Adams, approving of the Resolution to assemble a Convention, and appointing Citizens Thelwall, Lovett, and two others, to meet the Convention in behalf of the Society.

Another paper was next sworn to, with a plan of a Reform, of Universal Suffrage, and Annual Election. This paper states that a great majority of the people are not represented. The majority of the Commons are chosen by about 12,000 voters. Birmingham, Sheffield, Leeds, Halifax, and other large towns, have no Members. It also contains the foundation of the Society, which was called the Corresponding Society, with the forms of admission, &c. and that they were to pay one penny per week.

William Woodfall was called, but did not answer.

Mr. Erskine observed, that it was impossible to take all the contents of the papers down as the clerk read them, and therefore proposed that there might be copies, that they might have access to them. This proposition was acceded to.

Edward Lauzun, an extra messenger.—On the 12th of May last, he seized some papers; the first shewn to him was one of them.

Grant swore that he believed it to be Hardy's writing. It was dated August 20, 1792, directed to Mr. Buchanan, at Edinburgh, and contains the resolutions of the Corresponding Society to effect a Parliamentary Reform. The prisoner, in that letter, endeavours to promote a union between the societies—" A threefold cord is not easily broken."

A second paper, dated September 4, 1792, is a letter to the secretary of the Manchester society, containing thanks for that society's letter, and inclosing twelve copies of an address to the people of England. The letter and address recommended a reform in very strong terms.

August 13, 1792. A letter to Richard Cartwright, chairman to the Constitutional society, containing a copy of the address to the people, to persuade them to a parliamentary reform. This letter is signed Maurice Margarot, chairman, and Thomas Hardy, secretary.

The address was now read, and the resolutions, all of them setting forth the inequality and corruption of the present state of representation; the address contains a minute description of the Boroughs, which, with very few electors, viz. some *three*, *four*, *five*, and *six* electors, return *two* members each, whilst large and populous towns send no members; states a long list of evils and grievances which the nation was obliged to suffer on that account. The opinions of Mr. Pitt, the

Duke of Richmond, &c. &c. are quoted—"That the nation would never regain its ancient constitutional rights, until a fair and equal representation in parliament was effected." Also a very long catalogue of evils and enormities which are stated to flow like a torrent upon the people through that corrupted source. It is dated London, August 26, 1792. This piece took half an hour in the reading.

A fourth paper was produced, which Mr. Grant did not believe to be the writing of the prisoner; but it being found in the Prisoner's own possession, with the others which were read, the Court admitted it in evidence. This was a letter containing two copies of Paine's Rights of Man, together with copies of the foregoing addresses, directed to Stockton.

The next paper was a letter of thanks from that town, directed to the prisoner, in which they say that they need all their assistance.—Mr. Lauzun found it in the prisoner's possession.

The next head of evidence was an address to the French Nation, written by Mr. Horne Tooke.

Mr. William Woodfall, examined by Mr. Wood, proved the hand writing; and Maclean proved that he found it in Mr. Hardy's custody. It was a letter to Mr. Adams, signed by Mr. Hardy, dated October 11, 1792, and inclosed in it an address to the French National Assembly, which was in the hand-writing of Mr. Tooke. The answer of Mr. Adams followed, acknowledging the receipt of the address. This was proved to be found in the Prisoner's custody by the Messenger, Lauzun.

The next document was a letter to Mr. Thomas Walker, Chairman of the Manchester Constitutional Society, and inclosing another copy of the intended Address to the French National Assembly.

Another letter, dated October 11, 1792, acknowledging the receipt of a letter from Norwich, and inclosing in return another copy of an address to the French.

October 18, 1792, a similar letter to the Society at Derby. —October 18, 1792, a similar letter, with an address—A letter, dated November 11, 1792, from Mr. Baxter, Chairman to the Norwich Society, to the Prisoner, and containing a desire that three of their members might be incorporated with the Corresponding Society, in order to further the views of the Society; and desiring to know whether it was their design "*to root up Aristocracy* by the roots, and place *Democracy* in its room? or whether to follow the plan of the Duke of Richmond?"

November 26, 1792, contains an answer from the Prisoner to

to Mr. Baxter; but in which he cautiouſly avoided anſwering that queſtion, but ſtrongly recommends a reform, &c. upon legal and conſtitutional principles; and ſtates to the Society the great acquiſition of ſtrength which the Society was daily acquiring.

An addreſs was then read from a Society in the country to the London Correſponding Society, in which they thanked the latter for their kind advice in recommending it to them to preſerve order and obedience to the laws.—Another paper was an agreement, in conjunction with other Societies, to preſent an addreſs to the National Convention of France. It ſaid, that it was congenial to the heart of a Briton to wiſh ſucceſs to the cauſe of Freedom, and expreſſed great abhorrence to the Duke of Brunſwick's Manifeſto, which, it is ſaid, aimed not only at the liberties of France, but of the whole world. Two more letters were read; one written in February, 1793, from the *Friends of the People*, in anſwer to one from the Correſponding Society; and the other an anſwer to that again, ſuppoſed to be written by Mr. Margarot.

Mr. Grant, the printer, was again called as a witneſs, to prove that a certain paper, in the form of a poſting bill, was printed by him. He ſaid, he had been made a member of the London Correſponding Society in the beginning of the year 1722, the firſt diviſion of which then met in Exeter-ſtreet, at a public houſe, the maſter of which was a member. He then ſaw Mr. Margarot, Mr. Hardy, Mr. Richter, &c. He had attended the diviſion but ſeldom. In November of the ſame year he was applied to by Mr. Richter to print the poſting bill in queſtion, which he accordingly did, to the number of 500 copies, which were given to one Carter, a bill-ſticker, who he heard was apprehended for ſticking them up. This paper was an addreſs from the London Correſponding Society to all the other Societies in Great Britain, aſſociated for the purpoſe of obtaining a reform. It denied the charges of Republicaniſm and Levelling, applied to it by Mr. Reeves's aſſociation: it denied that they had any other object in view than that of obtaining a reform in Parliament. They wanted to deſtroy no property but what had been raiſed on the ruins of their liberties.

Several other papers were read, conſiſting of correſpondence between the above Society and ſeveral others in Sheffield, Norwich, Edinburgh, &c. ſome relative to petitioning Parliament for a Reform, and others complaining of grievances.

About half paſt eleven o'clock, Mr. Erſkine, as counſel for Mr. Hardy, expreſſed a wiſh to know whether it was the intention of the Court to continue ſitting or to adjourn. He did

not conceive it possible for human nature to be able to hold out without rest or intermission until that immense volume of evidence should be gone through. For his own part, he had no objection to sit there any length of time; but he considered the situation of their Lordships and the Jury, whose duty was more arduous and important than his.

The Chief Justice said, there was a positive rule in law that no adjournment could take place during a trial, particularly a criminal one; and from that rule he would not depart, unless some extreme necessity occurred which must justify such a deviation; that necessity, he thought, did then exist, inasmuch as it would be impossible to keep the attention of the Jury alive, should the trial be continued without intermission. For that reason, he was inclined to enter into the consideration of the question, how far the adjournment, in the present instance, might be justified. An adjournment once took place in the case of a misdemeanor, and the Jury separated; but that was different from the present, for which there was no precedent, except one mentioned in the year-book (if it could be called a precedent), being a case in which the Jury were separated, and the Court obliged to adjourn by means of a terrible storm. The question, however, never was decided. Notwithstanding, if counsel then made an application on the ground of its being necessary to the prisoner, and if the prosecutor consented, he should have no objection to adjourn, provided the Jury could be kept together. His Lordship did not then see how that could be done. Before his coming into Court, he had made some enquiry on that subject, foreseeing the necessity there would be to deviate from the strict rules of law. The Sheriffs said, that the Jury could either be accommodated in the house where they then sat, or in their own houses, after having given their words of honour not to have any communication with any person. Whatever should be done in the present instance, he, with all his heart, would take his share of the risk.

Mr. Erskine made some observations on the delicate situation in which he stood. He thought it would be perfectly safe to permit the gentlemen of the Jury to go to their own houses; for he entertained not the least doubt but that gentlemen of their character would strictly adhere to their word of honour; and the prisoner, he was sure, would assent to such a measure.

The Chief Justice observed, that it was not the consent, but the request of the prisoner, that should be made in such a case.

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The Chief Baron thought an adjournment must necessarily take place, if justice could not be done without such a deviation; some regard should be had to the prisoner. The Court had heard the charge of the Attorney General when it was fresh to receive it. His defence ought to be heard in a similar situation. Yet this deviation should be made as little as possible; and he thought it better that the gentlemen of the Jury should not go to their own houses.

One of the Jury stood up, and said, he was an invalid, and would rather go home.

The Chief Justice told the Jury they could be accommodated where they were. They said they wished to go home.

Mr. Baron Hotham was against their going to their own houses.

Mr. Justice Buller said there was an Alderman then on the Bench, who once knew an instance of a Jury going home.

This Alderman, whose name we learned was Mr. Newnham, declared that to be the case.

Mr. Justice Buller asked the Sheriff whether there were any accommodations there for the Jury? Who replied, that beds and mattrasses had been provided, as well as every other possible accommodation.

The Chief Justice then said, that as it was visible to all mankind that the strict rule of law could not be adhered to, the Court had only to desire the Sheriffs to give what accomdations they could, to request the Jury to submit to those difficulties which were unavoidable; and as they might require something more than ordinary refreshments, their attendance would not be required until eight o'clock next morning.

Mr. Erskine informed the Court, that he had not been able to procure from the Privy Council copies of the several papers which were to be read in evidence against Mr. Hardy. He expected to know what was contained in that huge mass: and it was impossible for that to take place during the reading of them in Court. He should, therefore, when he came to the prisoner's defence, beg a little time of the Court. He mentioned the circumstance then, that the Court might not be thought to have a sudden application made to it. He had not, however, any the remotest intention of trespassing on the time of the Court.

The Lord Chief Baron thought the general rule against separation was very wisely adopted. The Jury, in that case, gave their verdict with a full and undisturbed impression of the evidence. When however this rule superinduced a failure of justice, an exception became necessary. But in his opinion, the exception should be no greater than the necessity required.

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If, therefore, the Jury could be accommodated in the house, that accommodation would remedy the evil, and depart least from the general rule.

Baron Hotham coincided with the Lord Chief Baron, and conceived the case novel, and pregnant with very serious consequences, unless the rule was departed from with the greatest caution.

Judge Buller asked the Sheriff if he could accommodate all the Jury.

The Sheriff answered "Yes, either with beds or mattrasses."

The Lord President concurred with the distinction, and the Jury had such accommodation prepared as the Sheriffs could procure.

The Court adjourned at 12 o'clock, until seven o'clock, Wednesday morning.

SECOND DAY.

OLD BAILEY, WEDNESDAY, OCT. 29.

The Court met at eight o'clock this morning, when Mr. Wood proceeded to examine the witnesses for the Crown.

A letter was produced signed T. Hardy, and addressed to Mr. Skirving, Edinburgh, which Grant proved to be the handwriting of Hardy. The purport of this letter was to return thanks for two copies of Mr. Muir's trial; to assure Skirving that the society looked on Muir and Palmer as Martyrs to the cause of liberty, and to express their warmest hopes that the oppressors of mankind might be ashamed or afraid of carrying their revengeful malice into execution. It is also declared, that Hardy had no doubt the society would, with pleasure, accept the invitation of sending a deputation to the Convention.

The next document produced, was a letter of Oct. 22, 1793, signed by Skirving, Secretary to the Scotch Convention, mentioning their meeting, and their full determination to procure Annual Parliaments, and Universal Suffrage, with their resolution respecting the delegates. This paper was proved to be found among Hardy's papers, by Maclean. Mr. Grant proved that an indorsement on the back of it was Hardy's writing.

The next paper was an answer to the former, signed by Hardy, declaring the nomination of Margarot and Gerald, as delegates

delegates from the Correſponding Society. This document Scott declared was one, among others, ſigned at Skirving's, which he ſaw taken out of a ſealed bag, at the Sheriff's office in Edinburgh, while Skirving was preſent. The writing was proved by Grant, as before.

The article of inſtruction from the Conſtitutional Society to Gerald and Margarot, as their delegates to the Convention, were next identified. They were as follows:—1ſt, That they ſhould on no account depart from the original object and principles of the ſociety, viz. Annual Parliaments, and Univerſal Suffrage, *by peaceable and lawful methods.* 2d. That they ſhould ſupport the opinion, that repreſentatives of the people ſhould be paid. 3d. That the election of ſheriffs ſhould be by the people. 4th. That Jurors ſhould be choſen by lot. 5th. and that Jurors ſhould be inſtructed. 6th. They were to maintain the liberty of the preſs. 7th. and the right of reſiſtance againſt any act of parliament contrary to the liberty of the people. 8th. That the ſociety conſider all party names as contrary to the general happineſs.

Another letter was produced, ſigned by Hodgſon and Hardy, dated Nov. 1, 1793, addreſſed to Margarot and Gerald, expreſſing their approbation of the number and zeal of the friends of liberty in the north.

Three other letters were read from Hardy to Margarot and Gerald, bearing date Nov. 15, 22, and 29, 1793, of ſimilar import with the former.

Gurnell, one of the King's meſſengers, was brought forward as an evidence of the ſeizure of ſome papers at Hardy's; the firſt of which was a letter from Gerald and Margarot, in Edinburgh, dated Dec. 2, 1793, ſtating the line of conduct the Convention meant to purſue, in oppoſition to adminiſtration, if the Habeas Corpus act were ſuſpended, foreign troops landed, a Convention bill paſſed, &c.

Then followed the correſpondence between Mr. Hardy, as ſecretary to the Correſponding Society, and Mr. Gerald and Mr. Margarot, two of the delegates at the Convention in Edinburgh; moſt of theſe papers were printed alſo in the appendix to the report of the committee of ſecrecy; they were produced by a witneſs of the name of Gurnell. Theſe papers being all read by the officer of the Court, Mr. Bower ſaid, "My Lords, we now propoſe, on the part of the Crown, to read the proceedings of the Convention itſelf."

Mr. Erſkine—"I am not very anxious, I confeſs, to ſhut out any of the evidence which the learned gentlemen for the Crown have yet offered for the conſideration of the Jury. As the caſe ſtands at preſent, I am entitled to ſay, that although this Society has been formed, the object of it's formation

mation has not yet been heard of by evidence, so as to entitle the Crown to call upon the Jury to put upon it any construction that would make it our duty to explain. They appoint two delegates for the Convention, and the character of that Convention is not the thing complained of on this record. This record did not complain of that Convention, it only imputed guilt to the defendant now at the Bar, for being one of those who assembled to concert measures for calling afterwards another Convention of the people. We have evidence that those two Gentlemen were delegates to the first Convention, and that they had instructions given to them; these instructions instructed these delegates, as the Court has heard, to pursue closely the rule and institutions of those by whom they were appointed; the rules and institutions of this Society, and which have already a long time been made public. If therefore it should turn out in the course of this proceeding, that the delegates ordered to act under the rules and institutions of this society, did what many honest men may do, and what many honest men have done, in the moment of heat and irritation, say something that in their cooler moments they could not approve—if Mr. Margarot had said or done any thing of this kind, and went beyond the letter and the spirit of his instructions, I maintain that you cannot by such an act affect the prisoner at the bar, of which, however, there is no evidence; nor can there in this way be any evidence fairly brought against him, for it is not the thing complained of in the record. Your Lordships will give me leave to call this point to your recollection: the defendant now at your bar, is charged with no act of the Convention of Edinburgh. He is charged with that of which I cannot think him guilty; if I thought him so, as I am his counsel, I must have gone through my duty unquestionably in defending him; but I should then have done it in a manner very different from that which I shall adopt for his defence. He is charged with having encompassed the death of the King, whose life is dear to us all; to prove that he had that wicked intention, the evidence should be clear, and refer to the act itself, but no act can be given in evidence, that does not go to shew that the prisoner had that wicked encompassing in his own breast at the time the act was committed. If they can shew that any instructions were given to the two men who attended this Convention, and that evidence demonstrated a wicked intention, which was manifested afterwards, on the part of the prisoner, in the way which this indictment imputes to him, or any thing that approached towards it; then the counsel for the Crown will be right. My Lord, I do not make this objection from any apprehension

of

of the importance of the present question: I have no desire to make captious objections; I think we have already given proofs that we have no wish for such a practice.—My friend, Mr. Gibbs, and myself, have sat here silent enough, while many of these papers have been read in evidence. I do not mean to give to the Court any unnecessary trouble; all that I wish is that nothing of this sort should pass, so that just rules of evidence may be done away. As to that which is now proposed, I do not know what it is, very probably I am wasting my own breath upon nothing, for that the thing itself conveys no intelligence; but I speak from another motive, I speak in defence of the rules of evidence in a Court of Justice. I am now engaged in defending the life of Mr. Hardy only; but I ought to consider that if the rules of law and justice are broken in upon, I may soon have to defend my own life. I must take care that the rules of evidence are preserved inviolate.—All that I mean to say is, that if Mr. Hardy knew of the proceedings of this convention in Edinburgh, then my objection falls to the ground in this respect."

The Lord President agreed, that the evidence proposed could not be adduced immediately against the prisoner. He observed, however, that it might be let in: but that the application of it was another thing. At all events, the prisoner might afterwards object that the delegates had exceeded their commission, and that objection would be valid so far.

Mr. Bower. Yes, my Lord, we mean to shew, in many instances, the prisoner's subsequent approbation of the proceedings of the British Convention.

The Lord President. That declaration is enough to let in the evidence; the application of it will depend on what will further appear. If the deputies exceeded the limits of their mission, it will be matter for observation to the Jury.

The Solicitor General. The deputies must be regarded, I apprehend, as agents to the prisoner; and if he did not disclaim their conduct when he became acquainted with it, he of course becomes a party.

Mr. Templar, Clerk of the Rules in the King's Bench, now proceeded to read the Minutes of the British Convention, after Mr. Scott had proved the seizure of them.

Mr. Gibbs. I beg your Lordship's pardon, but we have not yet found the place in our copy to follow the reading.

The Lord President. You need not apologize; we shall think no delay misplaced by which you become enabled to make the most complete defence for the prisoner that his case will admit.

The Proceedings of the General Committee at Edinburgh, of the 6th November, 1793, were then read through.

The first Sitting of the Conventien at Edinburgh, of the 1st November, 1793, was also read through.

Read also the Resolutions of the Convention, entered into on the 28th November, 1793.

Letter dated 8th December, 1793, at Edinburgh.

Letter dated 19th December, 1793, at Edinburgh, signed Maurice Margarot to Thomas Hardy, read.

Mr. Garrow, for the prosecution, then called James Davison, who being sworn, said he was a printer—was employed to print the paper now presented to him—believes, that that happened on the 20th of February last. Thelwall brought him the copy or manuscript, from which he printed it. There was also another person along with Thelwall, but does not know who he was—it was not Hardy.

Here Mr. Erskine, on the part of the prisoner, objected to the further proceeding in this part of the evidence, as it appeared that Hardy was not concerned in it.

Mr. Garrow contended for the propriety of the evidence. He said that the connection of Thelwall with Hardy had been already so fully proved, that this being an act of Thelwall's, attached also upon Hardy; besides, the prisoner having paid for the printing, strengthened the application of it to him.

Mr. Erskine said, that no doubt, in indictments for conspiracy, when one person is connected with another, the act of one, if it be to one and the same purpose, even from one and the same crime as that for which they are convicted, attaches upon the other; but this, he contended, was totally different, and therefore inadmissible. Thelwall gives papers to be printed; that naked fact could by no means criminate the prisoner; and as to his paying for them, that was not in proof, and could not be taken into consideration. Suppose this paper contained crime, would the Court, he demanded, fasten it on the prisoner? In criminal cases the Court would not stretch the rules of evidence.

The Lord President said, that he thought the insisting on one side, and objection on the other, were both premature. It must be first known what the paper contains, before the Court can determine, or the Counsel contend, on the admissibility of it as evidence.

Mr. Garrow said that this was a paper of incitement to the people to rise in furtherance of the general conspiracy, and an instrument to carry it into effect.

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The Lord President. " In order to judge of it, it will be necessary to open that point of the writing; I have cast my eyes over it, and saw something applying to the general charge."

Mr. Garrow then read the paper, and continued the examination of Davison, who deposed that he printed by Thelwall's order, 2000 copies of it. Did not print the whole that day; printed 200 only; carried them to the Globe tavern; met Hardy on the stairs; was a member of the Corresponding Society; had been at some of their meetings; saw Hardy at them; knew he was Secretary; told Hardy that he had brought the 200 copies, but Hardy desired him to take them back, and not distribute them; brought them back accordingly, and returned to the Globe tavern to dinner. On that day the Resolutions were passed. Being questioned as to the time of the day, said he saw Thelwall at one or two o'clock, at four or five carried the copies to the Globe tavern, and came again to it about six; was not present when the Resolutions were proposed. Had the copy given to him on the 18th, and delivered them on the 20th—had no doubt about it. The dinners on those occasions were public; each man paid for his ticket of admittance. Believes there was a chairman, but cannot positively say who; imagines that Thelwall was the man, but is not sure—the prisoner Hardy was there. Some one afterwards sent to him for some of the copies to the Globe tavern, and they were brought to the meeting: he himself saw only one there, which was handed round. There were three hundred people present. Stayed there till about ten o'clock. Afterwards, in the same week, he printed a thousand more, in pursuance of the original order given him by Thelwall; gave many of them to Hardy, members of the society often came for more. Printed six thousand more at other times; and Hardy ordered him to go on printing until desired to stop. Thinks that it was in March he was desired to stop. Printed eight thousand in all. Has not been paid for them yet: no one promised to pay for them: had no communication about the payment with Hardy, but put the printing down to the account of the society, and made them his debtors for them: on other occasions printed for them, and Hardy paid.—Knows John Martin a little: cannot say whether he was or was not a member of the Corresponding Society; was at the meeting held at the Globe tavern when he went there.

Here a paper containing the Address and Resolutions of 20th of January, together with the toasts drank on that day were read.

The witness being asked whether he knew if any persons not being members of the society were admitted, answered that he did not know; but being pressed by one of the Jury, said that there were at dinners. Spoke of the toasts with Martin; to whom he said, that he thought there were some hard words in them; but Martin said, No, they were constitutional—there was no danger. This happened on the 21st or 22d.

Richard Williams was then sworn, to prove the handwriting of Mr. Thelwall.

Mr. Garrow. We have shewn Thelwall to be a party in the conspiracy, and an agent for printing the works of the society. Any act of his, therefore, in pursuance of the grand object of the destruction of all rank, and the established order, is evidence against the prisoner. The mode he adopted was, that of writing songs to expose and vilify the established orders, to prepare the minds of low and ignorant people for their ultimate destruction. We mean to produce in evidence an account of these songs, as given by Thelwall.

Mr. Erskine. If these songs had been sung at the society, it would have been evidence; but Thelwall's account that such songs had been sung is not. What an agent does, binds the principal, but not what he says he does. The account is given to a stranger, unconnected with the society.

Mr. Gibbs. We can have no anxiety to resist this kind of evidence, but the consideration, that if it be frequently admitted, there is no knowing where it may end.

The defendant is charged, 1st, With compassing the King's death; 2d, With endeavouring to effect that object by means of an insurrection, or with inciting the insurrection with that settled design. All evidence, therefore, must apply to one of these points of the indictment: the present letter applies to neither.

Mr. Garrow. The whole objection applies to the effect and tendancy of the letter, which is applicable only to the Jury. Now, we say, the letter being in furtherance of the general conspiracy, all the collateral parts involve every one concerned, provided they do not divulge into separate and distinct offences.

The Lord President. I have great doubts on this point of evidence. Every part of a general conspiracy should be admitted as imputable to all; but this is only a private letter: and though good against Thelwall, in my opinion, should not be received against the prisoner. It is not similar to a fact done by Thelwall; it is only an account given by him like a declaration and confession.

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The Lord Chief Baron and Baron Hotham were silent.

Judge Buller. I think this evidence is admissible. The indictment, in the present case, involves two distinct points, which, if kept separate, the evidence will apply: 1st, The existence of a traiterous conspiracy: 2d, How far the prisoner is concerned in it. The first point should be established, and then the second enquired into. Suppose the case stood thus Thelwall had spoken words to the same effect; the evidence might have been received as establishing the first point of the existence of a conspiracy. This was done in Dameray and Purchase's case; and recently in Lord George Gordon's, evidence was received of what the mob said, although his Lordship was not present at the time. It shewed what design was on foot. The other point involving the prisoner must afterwards be made out; but Thelwall's letter or words make of the fact of a conspiracy.

Judge Grose. There are doubts on this subject, but I can think that the evidence should be rejected. Both are parties to one plot, and it is very material to hear what either says concerning it; for that shews the *animus* and object. I am therefore for it's admission.

The Lord Chief Baron. There certainly is great doubt on the subject; but it does not appear to me that the letter meets the definition of furthering the conspiracy. I therefore am for rejecting the evidence.

Baron Hotham. It does not appear to be part of the plan, but a simple narration, which should not be received against the prisoner.

The Lord President. I retain my opinion, and see a wide distinction between *words* and *actions*. The cry of a mob in Lord George Gordon's case was a part of the action and a fact.

Three Judges being against the evidence, and two for it, the evidence was rejected.

Mr. Garrow wished to produce a letter from Martin, a member of the London Corresponding Society to Margarot, while at Edinburgh as a Delegate to the British Convention.

Mr. Erskine objected, as Martin was not included in the indictment, nor any way known but as a member of the London Corresponding Society. If his letter were to affect the defendant, he saw no end to evidence, as any letter of any of the numerous members might be produced in the same way, and he wished to know if in that case he should be allowed to rebut the evidence by the same kind; namely, evidence of innocent or meritorious intention.

Mr.

Mr. Gibbs regarded this caſe as ſimilar to the laſt. It was a relation and not a fact.

Mr. Garrow obſerved, that the letter was an excitation to inſurrection in direct terms.

The Solicitor General ſaid, the objection appeared to him to have no weight, and not at all connected with the queſtion which the court had decided.—That deciſion he was bound in duty to ſubmit to; but in contending for the admiſſibility of the preſent evidence, he ſhould not be obliged to controvert what had fallen from the Bench. It appeared to him a clear propoſition, that where a conſpiracy was proved to exiſt, a converſation among a part of the conſpirators might be adduced in evidence againſt any other of the conſpirators, though he might not have been preſent at the converſation. The diſtinction between the preſent queſtion and that which had been juſt decided, was very obvious, for this was a letter from a perſon charged with being in the conſpiracy to another ſtanding in the ſame predicament, and therefore ought, upon every principle of evidence, to be read as a proof of the intentions of the parties, and the object of the Conſpiracy.

In the caſe of Lord Strafford, much of the evidence was of the general nature, ſuch as the converſation between Anderton and two other conſpirators; at which Lord Strafford was not preſent.

In the caſe of Lord Lovat, the ſame doctrine was laid down by the Solicitor General of that day, and the ſame ſpecies of evidence admitted.—In contending for the admiſſion of the evidence, he did not mean it as a poſitive proof of the *quo animo* with which Hardy acted, but merely as a means, by which to aſcertain the general views of the conſpirators.

Serjeant Adair was extremely anxious that this point ſhould be decided, not only from its importance in the preſent caſe, but that it might ſerve as a rule for poſterity.—It was neceſſary to ſtate exactly the grounds upon which the evidence was tendered; he did not mean to contend, that the idle converſations of Martin was poſitive proof of guilt againſt Hardy; but as the letter offered to be read, was from one conſpirator to another, ſtating a fact which had occurred in furtherance of their plan, it certainly ought to be read, as tending to ſhew the views of the parties. The charge againſt the priſoner was, that of conſpiring againſt the King, with an intent to depoſe him and take away his life; but this plan was to be effected under the cloak of a parliamentary reform. The latter, might under circumſtances, be innocent; but among people acting in this manner, there muſt of courſe have been uſed many equivocal expreſſions, which it would be impoſſible to develope, if

ſuch

ſuch an evidence as this were not to be admitted.—The letter itſelf, if read, would not prove perhaps any great degree of guilt againſt the priſoner, but the principle was ſo extremely important, that he felt anxious for it being eſtabliſhed by the admiſſion of this evidence.

Mr. Bearcroft ſaid, he would not apologize for troubling the Court upon ſo important a caſe; there were two things which he would in the courſe of what he had to ſay, cautiouſly avoid; he would not break in upon the determination which the Court had lately given, nor would he repeat one word which had been ſaid by his learned friends who had preceded him. He thought he might lay it down as a poſition clearly acknowledged that the general rules of evidence acted upon in caſes of a ſmaller magnitude, were equally applicable in a caſe of High Treaſon. In every trial for a Conſpiracy, the fact of the conſpiring having been proved, the declarations or acts of one of the conſpirators was always admitted as evidence againſt the others. It had already been proved, that Margarot, Martin, and the Priſoner, were connected together in this plan, and the letter of one of them was admiſſible againſt the others, whether it proved much or little.

Mr. Bearcroft, Mr. Bower, and Mr. Law, made ſeveral obſervations on the admiſſibility of this letter.

Mr. Erſkine in reply declared, that it never was his intention to oppoſe the reading of any document relative to this buſineſs, but it was to prevent a dangerous precedent being eſtabliſhed. It was not a matter of ſlight importance. He ſtood there as counſel for the innocent man at the bar, for the Country, and for the Conſtitution, and he would ſuffer no precedent to be adopted that was incompatible with their ſafety.

Mr. Solicitor General ſmiled. very pertinent to the trial

The learned Counſel obſerved, that the ſolemnity of the occaſion ought to inſpire emotions of a very different nature. If he was miſtaken in point of law he was open to correction, but it was not to *him* that he would apply for information on the ſubject.

The Lord Preſident ſaid, a conſiderable portion of time had been taken up in the diſcuſſion of this point.—He did not throw any blame any where, as the point certainly was of much importance. He confeſſed he did not think this evidence could be diſtinguiſhed from that which the Court had refuſed to admit.

This letter was not proved to come to the hands of Margarot, and therefore might merely have been written by Martin, and never ſent. Suppoſe four perſons are accuſed of a conſpiracy, and three of them acknowledge the conſpiracy, that would not

not be evidence against the other. The case of Lord Strafford did not apply to this, because in that case all the parties were engaged in conversation proved. His Lordship therefore thought the evidence ought not to be admitted.

The Lord Chief Baron thought there was a material distinction between the former case and the present, for this was a compleat act in one of the conspirators, and in his opinion good evidence against the rest.

Baron Hotham retained his opinion upon the former case, but thought it very distinguishable from the present, and therefore was of opinion that the evidence ought to be admitted.

Mr. Justice Buller and Mr. Justice Grose were of the same opinion; and the letter was read, the hand writing of Martin was proved by William Walker.——It was dated Richmond-buildings, January 22, 1794, and directed to Mr. Margarot, Edinburgh.

The following papers found in Hardy's house, were then read:

A letter from the Bristol Society for constitutional information, dated the 24th Jan. 1794, and addressed to the prisoner.

Some circular letters, dated 9th of April.

A letter from the Norwich Society to the prisoner.

A letter, purporting to be an answer to the last, but not signed by the prisoner, or in his hand-writing.

A letter, dated Bristol, 24th April, 1794, from the Bristol Society.

A letter from the Norwich Society, dated 29th April, 1794.

A letter from the Hereford Society, dated 12th April, 1794.

The answer to the above, signed T. Hardy.

A letter from the Halifax Society, May 11, 1794.

A letter dated Edinburgh, Oct. 1793, addressed to the prisoner.

A letter from the Society for Constitutional Information, dated 14th June, 1792.

A letter from Hardy to the Society for Constitutional Information.

A letter from a society at Sheffield, addressed to the prisoner, but found amongst J. Thelwall's papers, was next produced.

Mr. Erskine contended, that this paper was not matter of evidence against Hardy. There was no proof that he had ever seen the paper, nor that the Sheffield Society, from which it came, was that with which his client had been in the habit of corresponding.

Mr. Garrow said, that as Thelwall was a subordinate agent of the society, and acted in conjunction with Hardy, the ad-

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dreſs was a ſufficient proof that the latter was acquainted with its contents.

The Lord Preſident *(Eyre)* agreed with the Counſel for the proſecution. He added, that the act of any one man engaged in ſuch a conſpiracy, was ſufficient to criminate thoſe with whom he co-operated.

The letter was then read. It ſtated the increaſe of their numbers in deſpite of the ariſtocracy, by which they were ſurrounded, and their determination not to abate in their efforts until a reform was accompliſhed.

Daniel Adams, late ſecretary to the Society for Conſtitutional Information, was then ſworn. He identified the books of that ſociety, which were ſeized at his houſe. Theſe books, he ſaid, were always open to the inſpection of the members, and lay on the table at their meetings. This privilege was however uſed but ſeldom, as the minutes of the former were always read before they proceeded to buſineſs at the ſubſequent meeting.

The minutes of the meeting of the Conſtitutional Society, held at the Crown and Anchor on the 18th of Auguſt, 1792, and the ſubſequent days, were then read. Theſe related to the admiſſion of ſix members from the London Correſponding Society; their thanks to Mr. Paine for his works, their declining his offer of a thouſand pounds from the profits of the ſale of the Rights of Man, to be applied to ſuch purpoſes as the Society may think proper. The ground on which they declined this offer was, that the principal ſource of his enjoyment they ſaid muſt ariſe from his own conſciouſneſs of the good which his labours had rendered to mankind; yet they did not think it right, that he ſhould be deprived of the profits fairly reſulting from thoſe labours.

As much ſtreſs was laid by the Counſel for the proſecution on the ſanction and adoption thus given to the works of Mr. Paine, we ſubjoin a liſt of the members preſent at thoſe meeting.

Mr. Froſt	Mr. J. H. Tooke
Mr. Edwards	Mr. Bonney
Mr. J. Williams	Mr. Payne
Dr. Maxwell	Mr. Hull
Mr. Sharpe	Mr. Pierſon
Dr. Kentiſh	Mr. Sturch
Mr. G. Williams	Mr. Conſtable
Mr. Rivington	Capt. Harwood
Mr. Buſhe, ſen.	Mr. Buſhe, jun.
Mr. Tuffnell	Mr. Maillow
Mr. Hinde	Lord Sempill

Mr. Fitzgerald	Mr. Barbelow
Mr. Jennings	Mr. Allen
Mr. Chapman	Mr. Aſpinhall
Mr. Hardy	Mr. Grant
Capt. Perry	Dr. Towers
Mr. Gerald	Mr. Littlejohn
Mr. Rutt	Mr. Sutton
Mr. Moore	Mr. Martin
Mr. Gough	Mr. Simmons
Mr. Joyce	Mr. Walſh, &c.

Mr. Jordan, bookſeller, in Fleet-ſtreet, was then called, to identify the work of Mr. Thomas Paine, and to prove his hand-writing. Mr. Jordan had never ſeen Mr. Paine write. He had received ſeveral notes from him, but never, as far as he can recollect, had a converſation with him afterwards on the ſubject of thoſe notes. He had publiſhed the works of Mr. Paine, but he could not ſwear that the copy preſented to him was one of his publication.

[Here appeared a temporary chaſm in the evidence, as the man was dead who had bought the Rights of Man at Mr. Jordan's by direction of Mr. White, the ſolicitor of the treaſury. Mr. Chapman, the printer of the book, was called, but did not appear. The Lord Preſident ſaid, that as there was no appearance of the written evidence approaching to a concluſion, the Jury may avail themſelves of this interval to take ſome refreſhment. The court adjourned at half paſt three o'clock for an hour.]

The court being reſumed, Mr. Lauzun, the meſſenger, was called in, and proved his ſignature to a copy of the cheap edition of the Rights of Man, found in the priſoner's houſe.

A letter was then read from Mr. Paine to the people of France, dated Sept. 25, 1792; in this letter he returns them thanks for having elected him a French Citizen, and a member of the Convention, and on having broken the line, which limited patriotiſm, like vegetation, to the ſoil. Theirs, he ſaid, was not the paltry cauſe of kings, but the great cauſe of mankind. He ſhould therefore chearfully join their cauſe, and embrace their hazards. He congratulated himſelf on the ſhare which he had taken in the American Revolution, and the more as it now appeared that the Old World had been regenerated as it were by the efforts of the New. He obſerves that it is impoſſible to conquer a nation determined to be free; but that Kings, accuſtomed to make war only on each other, had no idea of the reſources of an armed nation. The latter were always found at their height when they were expected to be at an end, &c.

Mr.

Mr. Chapman, bookſeller, of Fleet-ſtreet, was then called. He proved the printing of the firſt part of the Rights of Man, and the ſecond part as far as page 128, by the direction of Mr. Paine. The copy on the table he believed to have been printed by him. This Mr. Garrow ſaid was ſufficient for his purpoſe, and the chaſm in the evidence being thus ſupplied, he directed the following extracts to be read by the Clerk at the table.

[As on theſe extracts, and the ſanction given by the two ſocieties in queſtion to the *antimonarchical* principles of Mr. Paine, the treaſonable charge of aiming to ſubvert the monarchy of this country appears chiefly to hinge; we have felt it our duty, though the taſk is accompanied by a conſiderable ſhare of reluctance, to give them literally to our readers.]

RIGHTS OF MAN, PART I.

Page 54.—" Can then Mr. Burke produce the Engliſh conſtitution? If he cannot, we may fairly conclude, that though it has been ſo much talked about, no ſuch thing as a conſtitution exiſts, or ever did exiſt, and conſequently that the people have yet a conſtitution to form.

" Mr. Burke will not, I preſume, deny the poſition I have already advanced: namely, that governments ariſe either out of the people or over the people. The Engliſh government is one of thoſe which aroſe out of a conqueſt, and not out of ſociety, and conſequently it aroſe over the people; and though it has been much modified from the opportunity of circumſtances ſince the time of William the Conqueror, the country has never yet regenerated itſelf, and is therefore without a conſtitution."

Page 55.—" A government on the principles on which conſtitutional governments ariſing out of ſociety are eſtabliſhed, cannot have the right of altering itſelf. If it had, it would be arbitrary. It might make itſelf what it pleaſe; and wherever ſuch a right is ſet up, it ſhews there is no conſtitution. The act by which the Engliſh parliament empowered itſelf to ſit ſeven years, ſhews there is no conſtitution in England. It might, by the ſame ſelf authority, have ſat any greater number of years, or for life. The bill which the preſent Mr. Pitt brought into parliament ſome years ago, to reform parliament, was on the ſame erroneous principle. The rights of reform is in the nation in its original character, and the conſtitutional metnod would be by a general convention elected for the purpoſe."

Page 60.—" Much is to be learned from the French Conſtitution. Conqueſt and tyranny tranſplanted themſelves with William the Conqueror from Normandy into England, and

the country is ſtill disfigured with the marks. May then the example of all France contribute to regenerate the freedom which a province of it deſtroyed."

Page 152.—" The two modes of Government which prevail in the world, are, firſt, Government by election and repreſentation: Secondly, Government by hereditary ſucceſſion. The former is generally known by the name of Republic; the latter by that of Monarchy and Ariſtocracy.

" Thoſe two diſtinct and oppoſite forms erect themſelves on the two diſtinct and oppoſite baſes of Reaſon and Ignorance.—As the exerciſe of Government requires talents and abilities, and as talents and abilities cannot have hereditary deſcent, it is evident that hereditary ſucceſſion requires a belief from man, to which his reaſon cannot ſubſcribe, and which can only be eſtabliſhed upon his ignorance; and the more ignorant any country is, the better it is fitted for this ſpecies of Government."

Page 156.—" From the Revolutions of America and France, and the ſymptoms that have appeared in other countries, it is evident that the opinion of the world is changing with reſpect to ſyſtems of government, and that revolutions are not within the compaſs of political calculations. The progreſs of time and circumſtances, which men aſſign to the accompliſhment of great changes, is too mechanical to meaſure the force of the mind, and the rapidity of reflection, by which revolutions are generated: All the old governments have received a ſhock from thoſe that already appear, and which were once more improbable, and are a greater ſubject of wonder, than a general revolution in Europe would be now.

" When we ſurvey the wretched condition of man under the monarchical and hereditary ſyſtems of government, and dragged from his home by one power, or driven by another, and impoveriſhed by taxes more than by enemies, it becomes evident that thoſe ſyſtems are bad, and that a general revolution in the principle and conſtruction of Government is neceſſary.

" What is Government more than the management of the affairs of a nation? It is not, and from its nature cannot be, the property of any particular man or family, but of the whole community, at whoſe expence it is ſupported; and though by force or contrivance it has been uſurped into an inheritance, the uſurpation cannot alter the right of things. Sovereignty, as a matter of right, appertains to the nation only, and not to any individual; and a nation has at all times an inherent indefeaſible right to aboliſh any form of Government

it finds inconvenient, and eſtabliſh ſuch as accords with its intereſt, diſpoſition, and happineſs. The romantic and barbarous diſtinction of men into Kings and ſubjects, though it may ſuit the condition of courtiers, cannot that of citizens; and is exploded by the principle upon which Governments are now founded. Every citizen is a member of the ſovereignty, and, as ſuch, can acknowledge no perſonal ſubjection; and his obedience can be only to the laws.

" When men think of what Government is, they muſt neceſſarily ſuppoſe it to poſſeſs a knowledge of all the objects and matters upon which its authority is to be exerciſed. In this view of Government, the Republican ſyſtem, as eſtabliſhed by America and France, operates to embrace the whole of a nation; and the knowledge neceſſary to the intereſt of all the parts, is to be found in the center, which the parts by repreſentation form: but the old Governments are on a conſtruction that excludes knowledge as well as happineſs; Government by Monks, who know nothing of the world beyond the walls of a Convent, is as conſiſtent as government by Kings.

" What were formerly called Revolutions, were little more than a change of perſons, or an alteration of local circumſtances. They roſe and fell like things of courſe, and had nothing in their exiſtence or their fate that could influence beyond the ſpot that produced them. But what we now ſee in the world, from the Revolutions of America and France, are a renovation of the natural order of things, a ſyſtem of principles as univerſal as truth and the exiſtence of man, and combining moral with political happineſs and national proſperity."

Page 161.—" As it is not difficult to perceive, from the enlightened ſtate of mankind, that hereditary Governments are verging to their decline, and that revolutions on the broad baſis of national ſovereignty, and Government by repreſentation, are making their way in Europe, it would be an act of wiſdom to anticipate their approach, and produce revolutions by reaſon and accommodation, rather than commit them to the iſſue of convulſions.

" From what we now ſee, nothing of reform in the political world ought to be held improbable. It is an age of revolutions, in which every thing may be looked for. The intrigue of Courts, by which the ſyſtem of war is kept up, may provoke a confederation of nations to aboliſh it: and a European Congreſs, to patronize the progreſs of free Government, and promote the civilization of nations with each other, is an event nearer in probability, than once were the revolutions and alliance of France and America."

PART

PART SECOND.

Page 21.—" All hereditary government is in its nature tyranny. An heritable crown, or an heritable throne, or by what other fanciful name such things may be called, have no other significant explanation than that mankind are heritable property. To inherit a government, is to inherit the people, as if they were flocks and herds."

Page 27.—" How irrational then is the hereditary system which establishes channels of power, in company with which wisdom refuses to flow! By continuing this absurdity, man is perpetually in contradiction with himself; he accepts for a king, or a chief magistrate, or a legislator, a person whom he would not elect for a constable."

Page 47.—" This convention met at Philadelphia in May 1787, of which General Washington was elected president. He was not at that time connected with any of the state governments, or with congress. He delivered up his commission when the war ended, and since then had lived a private citizen.

" The convention went deeply into all the subjects; and having, after a variety of debate and investigation, agreed among themselves upon the several parts of a federal constitution, the next question was, the manner of giving it authority and practice.

" For this purpose, they did not, like a cabal of courtiers, send for a Dutch Stadtholder, or a German Elector; but they referred the whole matter to the sense and interest of the country.

" They first directed that the proposed constitution be published. Secondly, that each state should elect a convention, expressly for the purpose of taking it into consideration, and of ratifying or rejecting it, and as soon as the approbation and ratification of any nine states should be given, that those states should proceed to the election of their proportion of members to the new federal government; and that the operation of it should then begin, and the former federal government cease."

Page 52.—" The history of the *Edwards* and the *Henries*, and up to the commencement of the *Stuarts*, exhibits as many instances of tyranny as could be acted within the limits to which the nation has restricted it. The Stuarts endeavoured to pass those limits, and their fate is well known. In all those instances we see nothing of a constitution, but only of restrictions on assumed power.

" After this, another William, descended from the same stock, and claiming from the same origin, gained possession; and of the two evils, *James* and *William*, the nation preferred what it thought the least, since, from circumstances, it must take

take one. The act, called the Bill of Rights, comes here into view. What is it, but a bargain, which the parts of the government made with each other to divide powers, profits, and privileges? You shall have so much, and I will have the rest; and with respect to the nation, it is said, for *your shares* you *shall have the right of petitioning*. This being the bill of rights, is more properly a bill of wrongs and of insult. As to what is called the Convention Parliament, it was a thing that made itself, and then made the authority by which it acted. A few persons got together, and called themselves by that name. Several of them had never been elected, and none of them for the purpose.

" From the time of William, a species of government arose, issuing out of this coalition bill of rights; and more so, since the corruption introduced at the Hanover succession, by the agency of Walpole; that can be described by no other name than a despotic legislation.

" Though the parts may embarrass each other, the whole has no bounds; and the only right it acknowledges out of itself, is the right of petitioning. Where then is the constitution either that gives or that restrains power?

" It is not because a part of the government is elective, that makes it less a despotism, if the persons so elected, possess afterwards, as a parliament, unlimited powers. Election, in this case, becomes separated from representation, and the candidates are candidates for despotism.

" I cannot believe that any nation, reasoning on its own rights, would have thought of calling those things a constitution, if the cry of constitution had not been set up by the government."

Page 63.—" With respect to the two houses, of which the English Parliament is composed, they appear to be effectually influenced into one, and, as a legislature to have no temper of its own. The Minister, whoever he at any time may be, touches it as with an opium wand, and it sleeps obedience.

" But if we look at the distinct abilities of the two houses, the difference will appear so great, as to shew the inconsistency of placing power where there can be no certainty of the judgment to use it. Wretched as the state of representation is in England, it is manhood compared with what is called the house of Lords; and so little is this nick-named house regarded, that the people scarcely inquire at any time what it is doing. It appears also to be most under influence, and the furthest removed from the general interest of the nation. In the debate on engaging in the Russian and Turkish war, the majority in the house of Peers in favour of it was upwards of ninety, when in the

the other houſe, which is more than double its numbers, the majority was ſixty-three."

Page 65.—" But in whatever manner the ſeparate parts of a conſtitution may be arranged, there is *one* general principle that diſtinguiſhes freedom from ſlavery, which is, that all *hereditary government over a people is to them a ſpecies of ſlavery, and repreſentative government is freedom.*"

Page 107.—" Having thus glanced at ſome of the defects of the two houſes of Parliament, I proceed to what is called the Crown, upon which I ſhall be very conciſe.

" It ſignifies a nominal office of a million ſterling a year, the buſineſs of which conſiſts in receiving the money. Whether the perſon be wiſe or fooliſh, ſane or inſane, a native or a foreigner, matters not. Every Miniſtry acts upon the ſame idea that Mr. Burke writes, namely, that the people muſt be hoodwinked, and held in ſuperſtitious ignorance by ſome bugbear or other; and what is called the Crown anſwers this purpoſe, and therefore it anſwers all the purpoſes to be expected from it. This is more than can be ſaid of the other two branches."

Page 161.—" The fraud, hypocriſy, and impoſition of governments, are now beginning to be too well underſtood to promiſe them any long career. The farce of monarchy and ariſtocracy, in all countries, is following that of chivalry, and Mr. Burke is dreſſing for the funeral. Let it then paſs quietly to the tomb of all other follies, and the mourners be comforted.

" The time is not very diſtant when England will laugh at itſelf for ſending to Holland, Hanover, Zell, or Brunſwick, for men, at the expence of a million a year, who underſtand neither her laws, her language, nor her intereſt, and whoſe capacities would ſcarcely have fitted them for the office of a pariſh conſtable. If government could be truſted to ſuch hands, it muſt be ſome eaſy and ſimple thing indeed, and materials fit for all the purpoſes may be found in every town and village in England."

The Preface and Dedication of the ſecond Part to the Marquis de la Fayette were alſo read.

A minute of the proceeding of the Conſtitutional Society, dated Sept. 28, was next read. It contained the thanks of the Society to *Joel Barlow*, Eſq. for his pamphlet, entitled " Advice to the National Convention."

Mr. Johnſon, bookſeller of St. Paul's Church-yard, was called to prove the publication of this work. Of this pamphlet about 5 or 600 had been ſold. He was aſked how many of Mr. Paine's book had been circulated? Mr. Johnſon admitted that he had ſold the Rights of Man, but it was before it had been declared by the verdict of a Jury to be a libel. He appealed to the Court, when preſſed on this ſubject, and the queſtion was over-

over-ruled. He admitted in reply to a more general queſtion from Mr. Garrow, that the ſale of Mr. Paine's book has been very conſiderable.

On being aſked whether he had ſold any of Paine's letters to Mr. Dundas, he replied in the negative. He had forwarded ſome in a parcel to the country, but he could not ſay from what quarter they had been received.

The Clerk then proceeded to read ſeveral Extracts from Mr. Barlow's pamphlet, addreſſed to the National Convention, on the defects of the Conſtitution of 1791.

A variety of other Letters of Correſpondence and Papers were produced and read in evidence. Among them was a pamphlet written by Joel Barlow.

Mr. Johnſon was called, who proved that about one thouſand of theſe pamphlets were printed and publiſhed, and that it underwent three editions.

Of this pamphlet ſeveral paſſages were read, which purported to be an anſwer to Mr. Burke. In one of the paſſages, Kings were repreſented to be inimical to a popular and free government. Others contained a ſtrong panegyric on the Revolution of France and republican principles. This pamphlet was found in the poſſeſſion of the priſoner.

Mr. Johnſon alſo proved the publication of Paine's Letter, entitled the Addreſs to the Addreſſers, found alſo in the priſoner's poſſeſſion.

A book of the London Correſponding Society was then produced, from which a minute was read. By this minute it appeared, that an Addreſs of Congratulation was ſent to the National Convention of France, ſigned by Margarot, as Chairman, and the priſoner as Secretary.

Minutes of a meeting of the 26th of October, held at the Crown and Anchor Tavern, of the Conſtitutional Society, were alſo read in evidence.

At this meeting it was reſolved, that the ſecretary ſhould procure copies of ſeveral manifeſtoes that had iſſued.

The minutes of the proceedings at ſeveral other meetings of the Conſtitutional Society were read. At ſome of theſe meetings it was reſolved, that the letters from the Sheffield and other ſocieties be referred to the Committee of Correſpondence.

An addreſs to the National Convention of France was alſo at one of theſe meetings produced and approved of, and Paine's Rights of Man ſtrongly recommended.

It was agreed, that this addreſs ſhould be preſented at the bar of the National Convention, by Mr. Froſt and Mr. Barlow.

All theſe papers were found alſo in the priſoner's poſſeſſion.

The answer of Messieurs Frost and Barlow, who presented the address to the National Convention, was read. They said, they received the fraternal kiss from the president, and that the address was received with the greatest pleasure and satisfaction.

Mr. Herskissell was called, to prove the correct translation of a letter from a society in France, directed to the Constitutional Society. It recommended the people of England "to follow the example of France, and to lift themselves up against the perfidious Court of St. James's, whose infernal polity had made so many victims between the two nations, and disunited the people for the purpose of tyrannizing over them. It concludes by an offer of bayonets and pikes." This letter addressed the Constitutional Society by the stile of "Generous Republicans."

Another letter from the same French Society, to the Constitutional Society, and which was found among D. Adams's papers, was also read. It contained a warm eulogium on the transactions in France, on the memorable 10th of August 1792, reprobated royalty, and spoke in high terms of liberty and equality. It also expressed a grateful sense of "the intention of the Constitutional Society to contribute to the success of the French arms."

A letter from Mr. Frost was likewise read, dated at Paris, a short time prior to the execution of the French King, giving an account of the proceedings in France.

Mr. Herskissell was then examined, to prove what the transactions were, that happened on the 10th of August 1792, alluded to in the letter before stated. He accordingly detailed the notorious circumstances that took place on that memorable day.

Mr. Woodfall was called, to prove the hand-writing of Mr. Horne Tooke, to a draft of a letter he sent to Petion, in his character of president of the National Convention.

In this letter, he says, you are in no want of friends in England. We can now begin the patriotic gift of 1000l. and it will, no doubt, in time, amount to many thousands.

A letter, signed Petion, directed to Mr. Horne Tooke, was then read. It mentions these words, "You have the glorious advantage of being hated by your Government." It describes the cause of liberty, in England and France, to be the same. It alludes to pecuniary aid, and mentions a sum of 3000 livres.

An answer of Mr. Horne Tooke, to Petion, was also read, in which he mentions his having inclosed 3000 livres, for the promotion of the cause of liberty.

The proceedings, as entered in the book of the Constitutional Society, were then read. They contained a great variety

riety of resolutions, tending to manifest their disapprobation of the present war, their attachment to the Revolution in France, their wishes for a parliamentary reform, and the extension of liberty and equality all over the world.

J. Du Bœuf, a Frenchman, was next called. He said, he sold French newspapers, which he received by means of Messrs. Minett and Fector, from France. Among these was the French Universal Gazette, or *Moniteur*.

The Attorney General said, he produced three of these French papers, to prove, that they contained the speeches of Citizens Barrere and Saint Andre, which had become the subject of a resolution of the Constitutional Society.

The speeches contained in these newspapers were accordingly read. They contained many strong expressions against kings, who were stiled tyrants and despots. The people were described to be "the sovereign;" and a Convention was said to be the only means by which the people could effectually emancipate themselves from the slavery of kingly government, and exercise their sovereignty.

The minute of the meeting of the 15th of February, 1793, of the Constitutional Society, was then read. It expressed a firm resolution to persevere in the cause in which they had set out, and to obtain, by all legal and peaceable means, a reform in the representation of the people.

An address from the United Political Societies of Norwich, directed to Mr. D. Adams, as secretary to the Constitutional Society, was read. It stated, that their worthy London Corresponding Society had submitted to their consideration three propositions, namely: "Whether to petition Parliament, address the King, or have a general Convention, for the purpose of obtaining a parliamentary reform." They wished to refer the matter to the superior judgment of the Constitutional Society; but, they added, that they wished the day was arrived when a Convention of the people should take place.

The Constitutional Society deferred the consideration of his address, and afterwards directed Mr. John Frost to prepare an answer to it.

Another proceeding of the Constitutional Society was read, in which they resolved to thank Mr. Simon Butler and Mr. Hamilton Rowan, for their patriotic conduct, and declared that their sentences were, in their opinion, unjust and illegal.

At ten o'clock at night Mr. Erskine suggested to the Court, that his learned coadjutor, Mr. Gibbs, was so extremely fatigued with the laborious duty of the day, as to render his retiring very desirable to him. It was than past ten o'clock,

 and

and the fatigue, inſeparable from the buſineſs of the day, was eaſy to be conceived. It was to be noticed, that the priſoner's counſel had a harder duty to perform than the counſel for the crown, becauſe the number of the latter being ſo great, one could be occaſionally abſent for a whole day, but there being only two for the priſoner, neither of them could be ſpared. Mr. Erſkine ſaid, that from the early hour the Court met in the morning, and the late period at which it adjourned at night, he ſaw no day-light till the buſineſs commenced.

The Chief Juſtice ſaid, that he ſhould certainly do every thing in his power, to accommodate the priſoner's counſel. His Lordſhip admitted the force of the remark made by Mr. Erſkine, reſpecting the different ſituation, in point of accommodation, between the counſel for the crown and for the priſoner. The learned Judge thought Mr. Gibbs might retire for that night, and ſtill the buſineſs go on.

Mr. Erſkine ſaid, he hoped that after the great chaos of evidence on the part of the crown was finiſhed, he ſhould have ſome time allowed to conſider it, before he was called upon to addreſs the Jury.

The Court ſaid, that every accommodation would be granted to both the priſoner's counſel that public juſtice would admit.

The trial then proceeded.

Mr. Daniel Adams, the ſecretary to the Conſtitutional Society, was called, to prove ſome original papers, intended to be entered by him in the Books of the Society.

The counſel for the crown, by the inſtruction and proceedings of the Conſtitutional Society, intend to avow the connection between the two ſocieties, and that they combined to promote the ſame object.

A reſolution of the Conſtitutional Society was read, appointing a delegation to hold a conference with the London correſponding ſociety.

A reſolution for holding a convention of the people for the purpoſe, as it ſtated, of producing a fair and full repreſentation of the people, was alſo read in evidence.

The Court at half paſt twelve o'clock adjourned to next morning at ſeven o'clock.

The Lord Preſident lamented, that at the cloſe of a ſecond day, the labour of the Jury was ſo far from being at an end.

The Jury complained of the coldneſs of the room appropriated for their purpoſe; and ſaid it was impoſſible for them to get reſt.

A long converſation then took place, between the Court, the Bar, and the Jury, upon the beſt mode of accommodating the

Jury. It was propoſed to ſend them to the London Coffee-houſe, if twelve beds could be got there for them; upon enquiry, it appeared that beds could not be procured. The Hummums was then mentioned, and agreed to, and the Jury were ſent there in three coaches, attended by three bailiffs and a ſervant, who were ſworn to attend them.

The Court then adjourned to eleven o'clock the next day, on the requeſt of Mr. Erſkine, who wiſhed for a little time to examine and collate the evidence.

THIRD DAY.

THURSDAY, OCTOBER 30.

The Court did not aſſemble this day until twelve o'clock.

Mr. Gurnell depoſed, that he found a paper in the priſoner's poſſeſſion, dated April 30, which mentioned the election of Maurice Margarot, he being appointed delegate of the diviſion, No. 7, of the London Correſponding Society, for three months, James Sheriff in the chair.

Another paper was alſo put in and read, which was ſworn to have been found in the poſſeſſion of Mr. Hardy, mentioning the appointment of David Rowland as a delegate, at the Blue Poſts, in the Haymarket, Margarot Sec. and M'Neil in the chair.

Mr. Gurnell ſwore to another paper found in Mr. Hardy's poſſeſſion, ſtating that the ſixteenth diviſion of the London Correſponding Society had appointed John Baxter a delegate to the ſtanding committee. ——— Grey, Secretary.

The next paper put in and received, found in Mr. Hardy's poſſeſſion, mentioned that John Richter was appointed a delegate by the London Correſponding Society, to eſtabliſh a ſixteenth diviſion of the ſociety, at the Friend's Hand, Knightſbridge. This paper was alſo proved to be found in the priſoner's poſſeſſion by Mr. Lauzun.

The next paper put in and read was found in Mr. Hardy's houſe by Gurnell, dated the 7th of May, 1792, which mentioned that he, Mr. Hardy, was appointed a delegate from the London Correſponding Society, to a meeting held in Exeter-ſtreet, Strand, for the purpoſe of forming a conſtitutional code of laws, for the government of the Conſtitutional Society. Signed Thomas Boyd.

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The next paper put in on the depoſition of Mr. Gurnell, ſigned T. Hardy, was for the purpoſe of delegating Mr. Vaughan, from a diviſion of the ſociety, and authoriſing him to be preſent at the meeting at the Bell, Exeter-ſtreet, to aſſiſt the committee appointed to form the conſtitutional code of laws for the government of the ſociety.

The Attorney General followed this paper by another found in the poſſeſſion of the priſoner by Mr. Gurnell; it was ſigned T. Hardy, and directed to Mr. Wharton, M. P. It began by informing Mr. W. "That it was an original paper worthy of his peruſal, and if he ſaw any thing in the preamble worthy his approbation, or adopting, he may uſe it accordingly. In all its parts it poſſeſſed many ſweets, and it expreſſed a hope that he would, like the bee, extract a little from each. It pointed out the preſent ſtate of repreſentation, and lamented the many who were deprived of having voices for members to ſerve in Parliament. It had been read in the ſociety, and excited univerſal diſguſt;—the evils in the repreſentation it ſtated to be of the moſt glaring kind, and could not be made too public."

A letter from the Conſtitutional Society, at Sheffield, in Yorkſhire, to Mr. Hardy, was ſhewn Mr. Gurnell, which he ſaid he found among the priſoner's papers. It was read.

Mr. Lauzun depoſed having found a paper in the poſſeſſion of Mr. Hardy, entitled, "The Report of the Committee of Conſtitution of the London Correſponding Society, printed for the uſe of the members, and ſold by Thomas Spence." This paper was alſo read.

Jane Rickman, wife of Clio Rickman, bookſeller, was examined on the part of the crown.

She depoſed, that two books preſented to her were written by Thomas Paine, and publiſhed at her houſe. She knew Mr. Paine: her huſband was a bookſeller. Paine had lodged in her houſe, but when one of the books was printed, her huſband was not in England. She ſaw the book in ſheets, which were brought to her houſe. The large book was publiſhed during the abſence of the author from England. She ſaid, that Paine was at the houſe when the ſmall one was publiſhed, the Addreſs to the Addreſſers, and was to have profits from the large book, but not, ſhe believed, from the other.

Mr. Erſkine aſked her, if ſhe had ever read the books ſhewn her, and if ſhe had not, how could ſhe preſume to ſay, that they were not written and publiſhed by ſome perſon elſe; and was it not poſſible that ſome other perſon might have written a book with the ſame title, and have affixed her huſband's name to it?

She ſaid, ſhe was poſitive as to the books.

Mr.

Mr. Erſkine to the Court.—" I truſt, my Lords, that whenever this ſociety, or that is mentioned, that we ſhall not have looſer proof allowed, than what is required in caſe of libel."

Mr. Attorney General.—" I ſhall not admit any propoſition to the extent you ſay."

Mr. *Clio Rickman* examined on oath.

Q. Have you publiſhed theſe books? (ſhewing him the two pamphlets).

A. They were publiſhed with my name without my knowledge.

Q. How did you know they were publiſhed?

A. I heard it in the country, where I went early in September 1792.

Q. Who was to have the profits?

A. Never heard from my wife on that ſubject during my abſence.

Q. Whoſe hand-writing is on this book? (ſhewing it to the witneſs).

A. Not mine, it is my wife's.

Q. Look at the matter of the book; did you, in the common courſe of your profeſſion, ever ſee any other book, entitled, The Addreſs to the Addreſſers?

A. Never read any other book, under that title, but theſe.

Q. You have been a member of the Conſtitutional Society?

A. I have, but not for ſome time.

Q. Are theſe the books ſold at your ſhop?

A. They are ſomething like, but I cannot ſwear poſitively.

Jane Rickman ſwore, that ſhe put her name on the books ſold in her ſhop.

Mr. Erſkine obſerved, that the publication in queſtion, was entitled, " The Addreſs to the Addreſſers." What he wiſhed to know was, How it could be admitted as evidence in this cauſe. He was aware that the book entitled, " The Rights of Man," could be admitted, becauſe it was proved in evidence on a former occaſion, by members of two ſocieties that came to reſolutions to circulate it, that Thomas Paine was the author of the work; but in the preſent caſe no evidence of that kind was before the court.

The Attorney-General, in reply, ſaid, that it had been proved in evidence that Thomas Paine was the author of the firſt part of The Rights of Man, and of a Letter addreſſed to Mr. Dundas. It was proved that Thomas Paine was a member of the Conſtitutional Society; and it was in evidence that Clio Rickman was a member alſo. Thus, from both being members

bers of the same society, he submitted, that the witness might know that Mr. Paine was the author of the Pamphlet in question.

The Lord President. "This is perfectly a distinct matter."

The Attorney-General. "Then I shall not trouble you, my Lord, to hear this paper read."

Mr. Gurnell proved that he found two papers in the possession of the prisoner. The one was dated Sheffield, April 24, 1794, signed "Richard Davidson," and addressed to "T. Hardy." It began with these words: "The barefaced aristocracy of the present administration, &c." The other was directed to the Secretary of the Norwich Society, and signed "Richard Davidson." These papers contained several observations on the grievances of the people, and alluded to a model for pikes. They both concluded with the advice, that in case any answers should be sent, no letters should be directed to "Richard Davidson," but addressed, to prevent the suspicion of the Post-master, to "Robert Moody, China-square, Sheffield."

The Attorney-General now proposed to prove, that there was a person of the name of Richard Davidson connected with the Sheffield Society.

William Cammage was therefore called, and said, that he was a member of the society for constitutional information at Sheffield, of which he was secretary, till the latter end of May, 1793. He signed letters, but a committee managed the affairs of the society, composed of David Martin, John Holcroft, George Widdeson, and Matthew Campbel Brown. The avowed object was first a parliamentary reform, and it so continued. He remained a member after he ceased to be secretary. They had a delegate to the Scotch Convention, who was Brown. He himself too went to that meeting, and carried Brown a supply of cash; 10*l.* from Sheffield, and 10*l.* from Leeds. Gailes, a printer at Sheffield, he knew, and Henry York. The latter used to exhort at the meetings of the society. Arms, he never heard him mention in public. At first they thought of applying to Parliament for a parliamentary reform; but no specific plan was ever pointed out to obtain it. In private, he heard York say, that the society should be armed to protect itself, which he understood to allude to the threats, that the people of Sheffield meant to disperse the society when it met. He had seen the blade of a pike made by one Hill, which was approved of by York, for the purpose of arming. Others had been shewn him, which he did not approve of. In all he had seen about three dozen of these. He knew Widdeson,

deſon, and had ſeen handles for the pikes. They met to talk about this buſineſs, and ſee the inſtruments at night, and it was always at private apartments.

He recollected, that at the meeting on Caſtle-hill near Sheffield, York ſtrongly recommended in his addreſs not to petition Parliament for a reform, in conſequence of which, a reſolution was come to by the ſociety to that effect. York, at that time, recommended an addreſs to the nation, and after the meeting was over was drawn home in a carriage by the populace. He, the witneſs, had never heard him talk of a Convention, but had heard him diſapprove of the Scotch Convention, aſſigning, as a reaſon, that the people were unprepared for it. They ſhould firſt, he ſaid, have brought out an Addreſs to the People. The two letters to Hardy and the Norwich Society, he, the witneſs, had ſeen in Daviſon's poſſeſſion, who came from Leeds to Sheffield. Robert Moody was the man who put handles to the pike blades, and was a carpenter by trade. The blades were ten inches long, the handles ſeven feet; the former were like a bayonet, fluted and ſharp at the point. Daviſon and Gailes abſconded from Sheffield before the witneſs was apprehended. He had ſeen the model of a night-cat, and had been told that it was to uſe againſt cavalry, having three ſharp blades by five or ſix inches long to lame them as they trod.

On being croſs examined by Mr. Erſkine, he ſaid, that a Parliamentary Reform was his only object in belonging to the ſociety, of which he was ſecretary from its firſt inſtitution in 1791, till May 1793. By that reform he meant a more equal repreſentation of the people in the Houſe of Commons. He had no intention whatever againſt the King or Houſe of Lords, and had no reaſon to think that the ſociety had. The change was ſought for without any ſpecific plan to obtain it. Had he had any idea of force being uſed, he would not have been a member, or have continued ſo after that plan had been diſcovered. He had no conception that the ſociety or its objects affected the ſafety or honour of his Majeſty, or that the Scotch Convention meant to aſſume the power of the King or Parliament, but that they meant to petition by numbers for a reform, thinking that it would be more effectual than the petition of a few. He profeſſed himſelf a friend to the Engliſh Conſtitution in its purity, and that he had no wiſh to introduce the miſery and deſolation of France into this kingdom, or to bring down ruin on our Royal Family. He was afraid, and the Society, of the perſecution of the people of Sheffield, who were averſe to them. He conſidered all they did as legal, and the pikes and cats he never thought intended againſt the King or

Government. By the Bill of Rights, he conceived, he had a right to have arms individually and collectively for their defence.

The Attorney General. Who told you that the Bill of Rights permitted you to have arms?

A. Mr. York. I never conceived that they were to support a convention; but that what I contended for would make the King's title more secure.

Q. Why were pikes chosen?

A. For cheapness.

Q. Did you ever hear of night-cats being used?

A. Yes; at Newcastle many years ago.

Q. You say you expected to oppose the people of Sheffield only. Why, therefore, were the arms provided for London, as Davison's letter mentions?

A. Davison might think them necessary for the society in London as well as here.

Q. If meant only to oppose the opposite party of town's people, what signification had the words *barefaced aristocracy of Ministers* in the letter?

A. It alluded to the opposite party.

Q. Were night-cats too, to be used against the opposite party, in that sense town's people?

A. I know of none that were made.

William Broomhead was next called, and examined by Mr. Garrow.

Q. Where do you reside, Mr. Broomhead?

A. I live at Sheffield.

Q. What are you by profession?

A. I am a carpenter by business.

Q. Did you at any time, and when, become a member of the Constitutional Society at Sheffield?

A. I became a member of the Sheffield Constitutional Society when it was first formed in the year 1791.

Q. Did you at any time become a member of the Society of Twelar at Sheffield, that was associated with the Constitutional Society in London?

A. I never knew of any such Society.

Q. Do you not know of your own knowledge, Sir, that the Sheffield Society was associated with the Constitutional Society in London?

A. I understood that both the Societies acted in conjunction, but I know nothing further of the junction of the Societies, than that they corresponded by letter.

Q. Do you happen to know what the object of the Society was?

A. The

A. The professed object of the Society was the effecting a Parliamentary Reform.

Q. In what manner was a reform to be effected?

A. It was to be effected by meetings.

Q. How by meetings?

A. By means of those meetings the minds of the lower order of people were to be enlightened, knowledge to be diffused, and the nation at large made acquainted with it's grievances, and with the necessity of a reform.

Q. Was the mode of obtaining reform ever discussed in your Society?

A. No; it never was.

Q. Do you know that your Society ever had for it's object universal suffrage?

Q. No; it never had.

Q. Whom did your Society send as delegate to the Edinburgh Convention?

A. They sent a person of the name of Matthew Campbell Brown.

Q. Do you happen to know a person of the name of Henry Yorke?

A. Yes, I know a gentleman of the name of Henry Yorke.

Q. Do you know that he went by any other name?

A. Yes; he went by the name of Henry Redhead.

Q. Did Yorke reside at Sheffield?

A. No, but he has frequently visited the town.

Q. How long have you known Yorke stay at Sheffield at a time?

A. For the space of six, seven, or eight weeks.

Q. Did he frequent your meetings?

A. He did, and was very much respected whenever he made his appearance.

Q. On what account was he respected?

A. Because he was a great Orator, and a man of splendid talents.

Q. Were there not meetings held every week, and was there not a committee?

A. There were weekly meetings held, but regularly speaking, there were no committees.

Q. Did Yorke write any work when he was at Sheffield?

A. Yes, Mr. Yorke wrote several pamphlets while he was there; as well as I can recollect, I believe he brought a great part, if not the whole of the manuscript copy to the different meetings, to be read previous to their being printed.

Q. Where were those meetings held?

A. They were held at my house.

Q. In a large and commodious room I suppose?

A. Yes, the room was commodious.

Q. Was there any particular elevation appointed for the person who was to address the meeting, and what was it called?

A. Yes, there was an elevation, which some called the pulpit, and some the tribune, but it was never regularly *christened*?

Q. Do you remember any of the speeches that Yorke made at those meetings?

A. Yes, but I cannot charge my memory with any particular part at present. I recollect Mr. Yorke at one of those meetings, held a book written by Locke, in his hand, and read extracts from it. He expatiated upon the constitution, and he informed the people, that there was a great deviation from the constitution as it was originally formed.

Q. Can you remember any particular passages in his speech?

A. Why, I cannot say I do. I know he was peculiarly energetic, and in some parts very warm, and in others very strong.

Q. Strive to recollect some passages of his speech?

A. Why I do not think he said any thing detrimental to the constitution.

Q. Do you recollect any proposition that Yorke ever made to you?

A. Yes; I remember that Mr. Yorke and Mr. Gales both proposed that I should make a motion at the meeting at Castle-hill, for a reform in the representation of the people.

Q. Why you in particular?

A. In order that it might be over-ruled, and for the purpose of making another motion in it's stead.

Q. And did you make this motion?

A. Yes, I did, and it was objected to either by Mr. Yorke or Mr. Gales.

Q. Was there any elevation at the meeting at the Castle-hill, from whence the orators spoke?

A. Yes, there was what was called the pulpit.

Q. Was this meeting very numerous?

A. Yes, there were several thousand people assembled in the open air.

Q. And what was the consequence of this meeting; were there any resolutions drawn up?

A. Yes, the motion which I made to petition the House of Commons was rejected, and another motion made to petition his Majesty to redress the grievances of the people.

Q. Was that motion carried?

A. Yes, and drawn up upon parchment.

Q. Where

Q. Where was the petition left?

A. It was left at my houſe for ſignatures.

Q. Did Mr. Yorke make a ſpeech to the multitude upon this occaſion?

A. Mr. Yorke addreſſed the meeting in an eloquent ſpeech.

Q. What became afterwards of the petition?

A. It was ſent up to Lord Stanhope, in order that his Lordſhip might preſent it to his Majeſty.

Q. And did he?

A. No, his Lordſhip would not preſent it in that form.

Q. Do you happen to know that Yorke's ſpeech upon that occaſion was ever printed?

A. I remember that Mr. Yorke agreed to have his ſpeech printed, and it was printed accordingly.

Q. Did you ſee it in print?

A. Yes, I ſaw it after it was printed, and I believe it contained the ſubſtance of what Mr. Yorke ſaid.

[Here Mr. Garrow handed the Witneſs a pamphlet, which he deſired him to look at, and to tell the Court and Jury whether he thought it was the ſame pamphlet that he ſaw at Sheffield. This queſtion the Witneſs anſwered in the affirmative.]

Q. Did you receive any copies of this pamphlet, and from whom?

A. Yes, I received a number at Gales's ſhop, in conſequence of reſolutions of the ſociety.

Q. What did you do with thoſe books?

A. I packed them up in 24 different packages, addreſſed them to different perſons, put them all into one box, and, to the beſt of my recollection, ſent them to Thomas Hardy.

Q. Who applied to you to ſend thoſe books?

A. A perſon of the name of John Allcock.

Q. Why did you become ſecretary to the ſociety?

A. In order to increaſe my means, as the War had deſtroyed my buſineſs.

Q. Do you know that there were arms prepared before the meeting at Caſtlehill?

A. I believe there were a few pikes, but this circumſtance demands a very full illuſtration.

Q. We ſhall be particularly thankful to you, Sir, for an illuſtration.

A. Two days before the meeting, when it was underſtood that it was the Right of Engliſhmen to take arms in their own defence, a ſpurious hand-bill was circulated, ſpurious I ſay, becauſe it was not ſigned by any magiſtrate. But how do you think it was circulated? Not as one would be led to ſuppoſe, in the open day, no, it was ſcattered about the town in the

very

very dead of the night, in the dark, in order to excite us to the commitment of ſome deſperate and unjuſtifiable act. But this was not the caſe, and the hand-bill completely failed.

Q. What ſpecies of arms were talked of at this time?

A. The arms that were talked of were pikes.

Q. Did you ſee the model of a night-cat, as it was called?

A. Yes, I ſaw a thing that was called a night-cat, but it was only a play-thing for a child.

Q. Where did you ſee this model?

A. I ſaw it at the houſe of one Benjamin Dunn.

Q. Who produced it there?

A. One Charles Roſe.

Q. Was it examined?

A. Yes, the model was then thrown upon the floor in order to be examined. I recollect it was then called a cat.

Q. What was the nature of the converſation that was held about its uſe?

A. I never heard any converſation about it's uſe, but a mere trifling and deſultory converſation, an irregular diſcourſe. It was ſhewn as the production of a boy.

Q. Were you preſent at any other meetings where Yorke made any particular ſpeeches?

A. Yes, I have heard Mr. Yorke when he did not ſpeak ſo cautiouſly as he did at the meeting at Caſtle-hill.

Q. Be ſo good as to deſcribe in what manner he ſpoke.

A. He was certainly very warm at ſome of the ſubſequent meetings, and his warmth conſiſted in his drawing a very able compariſon between the grievances that Engliſhmen now labour under, and the ineſtimable privileges they formerly enjoyed.

Q. Go on, Sir.

A. Mr. Yorke ſaid, that Engliſhmen were now reduced to a low, pitiful, and deſpicable ſituation, and that ſooner than ſubmit to it any longer, he would go up with them (meaning the people then preſent) to London.

Q. When was this ſpeech delivered?

A. It was made before the ſubject of arming came upon the carpet.

Q. Was not this ſpeech delivered from the Tribune?

A. I believe it was.

Q. How did that declaration of Mr. Yorke's affect you; I mean when he ſaid—Sooner than ſubmit to it any longer, he would go up with them to London?

A. I muſt confeſs that declaration gave me ſome pain.

Q. Why?

A. Becauſe I fear God, and honour the King.

Q. Did

Q. Did you ever ſee this pamphlet? [Shewing him a pamphlet.]

A. O yes, I think I have ſeen a copy of it.

Q. Do you remember the proclamation for a general faſt?

A. I believe I do.

Q. How was it received at Caſtle-hill?

A. The buſineſs relating to the proclamation was not tranſacted at Caſtle-hill, but in the open air at Weſtgate?

Q. Were there many people aſſembled upon that occaſion?

A. There were ſome thouſands.

Q. Of what number did your ſociety conſiſt?

A. It conſiſted of 600 perſons.

Q. How do you happen to know the number ſo exactly?

A. I know it by the number of diſtinct books that were ſent to each member of the ſociety.

Q. How were the diſtinct meetings attended?

A. The diſtinct meetings were not attended ſo well as the general meetings.

[The examination of this witneſs was here interrupted by Mr. Lauzun, who was called up to prove that he found the two papers, which had been ſhewn the witneſs in the courſe of his examination, in the poſſeſſion of Mr. Hardy.]

Q. Do you recollect any hymn that was compoſed for the purpoſe of celebrating the faſt-day?

A. Yes, there was a hymn compoſed, and printed too, by Mr. Gales.

Q. Do you recollect whether any lecture was read?

A. Yes.

Q. By whom was the lecture read?

A. By a gentleman from Halifax.

Q. Was there any prayer upon the occaſion?

A. Yes, I compoſed a prayer for that occaſion.

Q. By whom was it delivered?

A. By myſelf, before a private meeting of ſeveral members of the ſociety.

Q. Did you ever happen to hear the name of John Paine?

A. Yes.

Q. Was he a member of your ſociety?

A. He was.

Q. Were Joſeph Gales and David Martin members alſo?

A. They were.

[The clerk of arraigns was here directed to read the proceedings of a meeting held at Sheffield on the 7th of April, 1794; which he did accordingly. *See Report of Secret Committees.*]

William

William Broomhead croſs-examined by Mr. Gibbs.

Mr. Gibbs. Attend to me, Mr. Broomhead—I think you ſaid, if I underſtood you right, that there was a ſpurious hand-bill circulated at the time that the pikes were talked of?

A. There was, Sir.

Q. What was the tendency of this hand-bill?

A. It adviſed the meaſure of taking up arms, in order to guard againſt foreign invaders and domeſtic enemies. It had a moſt flagitious tendency, for the body of it contained theſe words: "We never can do any thing, till we have ourſelves cauſed a riot."—This was evidently done with a view to throw us off our guard, and to incite us to commit ſome unjuſtifiable act.

Q. What was the firſt occaſion of your ſpeaking of arms?

A. This ſpurious hand-bill, which was circulated without the ſanction of any magiſtrate.

Q. What idea had you, Sir, about the people taking up arms then?

A. The only idea that I entertained of the people taking up arms was, not that they might be prepared to make any attack, but that they might be ready to oppoſe any illegal force, and to maintain the law of the land.

Q. How were theſe *pikes* that you talk about to be uſed?

A. They were to be uſed as inſtruments of defence only.

Q. Had you, Sir, or do you think the ſociety had, any idea of attacking the King and Parliament, or of meddling with the Conſtitution?

A. O no, Sir: I think if they had they would deſerve to be *ſent to Bedlam!*

Q. Had you yourſelf any ſuch idea?

A. No more than I have the idea this moment *of flying to the ſun!*

Q. What did you underſtand the object of the ſociety was?

A. What I underſtood the object of the ſociety was, is this, that they would uſe their endeavours to have the grievances which had been ſtated to have exiſted, redreſſed in a legal and conſtitutional manner. Such grievances I ſay as theſe—*where a man works fourteen or fifteen hours in the day, and after all is not able to ſupport his family.*

Q. Would you, Sir, have continued in the ſociety a moment if you were aware that they entertained the leaſt notion of attacking the King, Lords, and Commons?

A. Moſt aſſuredly not.

Q. Do

Q. Do you think there was a man in the whole ſociety ſo wicked as to harbour ſuch an idea?

A. I do not think there was ſo wicked a man among them all.

Q. The object of the ſociety was not to meddle with the King or Lords, but to endeavour to effect a Reform in the Commons Houſe of Parliament?

A. Moſt certainly that was their object.

Q. Did they not think, Sir, that the King and Lords with the Commons ſo reformed, would immediately redreſs the grievances that were complained of?

A. They aſſuredly did.

Q. Was it not their object to obtain this peaceably?

A. Moſt certainly.

Q. You have no reaſon to think that thoſe perſons, who might be ſent as delegates to a convention, would not act in a peaceable manner?

A. None in the leaſt.

Q. When a reform was talked about, did you not underſtand that by that was meant a reform in the Commons Houſe of Parliament?

A. I certainly did.

Examined again by Mr. Garrow.

Q. If a convention had been called, you could not take upon yourſelf to anſwer for the conduct of evil diſpoſed perſons?

A. I ſhould think it enough to anſwer for myſelf.

Q. Do you not know, Sir, that the meaſure of diſcarding the ſociety of the Friends of the people, from the Sheffield Society, was diſcuſſed in the diſtrict meetings?

A. I believe it was.

Q. Do you not know, that the Conſtitutional Society, at Sheffield, diſcarded the ſociety of the Friends of the people, becauſe they would not go the ſame lengths with them?

A. I know of no ſuch thing.

Q. Was it not the object of the miſchievous hand-bill, that you have mentioned, to excite the people to take up arms againſt foreign invaders and domeſtic enemies?

A. It was. But when the ſubject of arms had been talked of, we were afraid that illegal force might be employed againſt us, as was the caſe in Birmingham and Mancheſter.

Q. You did not then, in conſequence of this hand-bill apply to the civil power for protection, but immediately came to the reſolution of arming?

A. These resolutions were come to, though not with any mischievous intention.

Q. Do you happen to know who proposed those resolutions?

A. They were proposed by Mr. Yorke and Mr. Gales, and winked at by the society.

Q. Do you not know, that plans of arming were communicated by the Sheffield Society to the other different societies?

A. If such a thing was done, I was not informed of it.

A printed paper was next put in and read, containing minutes of the meeting at Sheffield on the fast-day on the 28th of February; the lecture read on the occasion, together with the resolutions entered into at the said meeting, expressive of the disapprobation of those present, upon the war, the landing the Hessian troops, and the universal construction of barracks throughout the kingdom.

Henry Alexander, examined by Mr. Wood, said, he was a member of the London Corresponding Society; that he became so in the latter end of November, 1793; that the society of which he became a member, met at Robin's Coffee-house, in Shire-lane. He thought he was the 95th member then admitted. He knew Mr. Yorke; he came in while he was there. He remembered him, and was with him there in the year 1793, at about the end of it. There might be between 60 and 100 people in the room when he went there, for it was quite full. On the last night Mr. York was there, he took leave of the company in a long speech. He said he was going, the witness said, to Belgium, (laying the accent broadly on the letter *i*) for that he had received a letter from a friend of his; he said they would be ripe for a revolution there, and he was going to be at the head of them. He said he was afterwards coming to England, and that he was in hopes he should be at the head of them.

Juryman. "Look this way; where was he to come to?"

Witness. "To London. He made a very long speech. He said in that speech, in substance, that he had received a letter, that he had the honour of being a member of the National Convention of France, and that he had hopes of coming over here, and that he should see them all ready to join him; and Mr. Pitt's, with the different members that he meant, and the King's head, should be on Temple-bar, and that that society would join him. Mr. Pitt's, meaning the Minister, and the King's head, would be on Temple-bar.

Juryman. "Mention the time."

Witness.

Witness. "The time was the 5th of November, 1793. He made many observations on the King and Queen of France."

Counsel. "This was the substance."

Chief Justice. "Put the witness in mind of the subject, but not what he is to say."

Witness. "I cannot recollect the words he used. It was that they had met with what they deserved. I do not recollect he said any thing to us about the war. He said something of the *Sans-Cullottes*. That they were a set of brave fellows, I believe. He said a deal about them, but I do not recollect what. He said something to us about arms. That when he came home he should find them all ready to join, and that when the time came he hoped he should not shrink from what he professed. He said it was impossible to do any thing without bloodshed. This was in the society. He said there could not be good done without bloodshed. He said there was a set of brave men at Sheffield. I cannot tell that he said how they were brave. He did not say where the blood was to be shed. He said nothing about bread and cheese, but a person came from Sheffield and said something about pikes, and said it would be good for them as they had nothing but bread and cheese. Mr. Yorke's speech was well received, and he spoke very loudly. They were all unanimous, and got up and shook hands with him as he got up to leave the room. I saw no more of Mr. York—I do not know where he went. I went after that to Mr. Dundas, and likewise to the Lord Mayor, Sir."

"I went to the Lord Mayor and Mr. Dundas, because I thought they were not going on properly. At first I was asked to go to the society. When I went in I saw Mr. Smith. He asked me to become a Member. I did not know what it was. I had a ticket, but I have not it here, for I gave it to Mr. Dundas's secretary. I think it is seven times I was there.

Cross-examined by Mr. Erskine.

I am a linen-draper, I live at the Rose, in Fleet-market: the time I went into the society was in the latter end of the year 1793: I did not go for the purpose of being a member, though I became one. A friend of mine of the name of Whitcombe asked me to a club; I went for nothing but curiosity. Mr. Yorke was not there the first night, Smith was there, and Ashley was there. I do not know who else. I cannot say the month. I did not hear any thing that was said to me that night. They sat until 12 o'clock. They had pa-

pers which I think Mr. Smith read. I became that night a member. There was nothing ſaid but making a member.

Mr. Erſkine. In plain Engliſh you are a ſpy?

Witneſs. After I found what they were, I became a ſpy, I did not wiſh for a parliamentary reform.

Mr. Erſkine. Why did you become member, if it was not for the purpoſe of becoming a ſpy?

Witneſs. I did not know what they meant by it.

Mr. Erſkine. Did you wiſh any parliamentary reform when you became a member, upon your oath, Sir? Look to the Jury, look at theſe Gentlemen. You need not look at me, Sir, I ſhall hear you.

No anſwer for ſome time.

Mr. Erſkine. Are you acquainted with Dunn of Manchester?

Witneſs. No, Sir.

Mr. Erſkine. I ſhould have thought you was.

Chief Juſtice. Why don't you anſwer, Sir?

Witneſs. I do not underſtand you, Sir.

Mr. Erſkine. I am ſorry for it, Sir. I believe you are the only one in Court who does not.

Witneſs. I never wiſhed any thing of the kind.

Mr. Erſkine. Why did you become a member of that Society?

Witneſs. Smith ſaid to me, be a member—One man then got up and read ſomething, but what he read I did not underſtand. What they read or ſaid afterwards that night I do not know. I do not know what I heard that night, but I heard it before I came back again. I did not approve of it. I related it to two or three of my friends, and they did not approve of it; they were of the ſame opinion as myſelf. I went a ſecond time to ſee what they were upon. I had not been deſired to go a ſecond time.

Mr. Erſkine. You wiſhed to be ſerviceable to the Public? You went there a ſecond time as a ſpy?

Witneſs. So it proved, at leaſt, Sir; I went there to ſee the real grounds then acted upon.

Mr. Erſkine. Did you take any notes of what you heard?

Witneſs. No; they would not ſuffer me to take any notes; they would not ſuffer me to take down any thing. They ſat every week.

Mr. Erſkine. What time, what month was this?

Witneſs. I do not recollect.

Mr. Erſkine. Was it in the ſummer or in the winter?

Witneſs. I cannot ſay, Sir? I attended twice after I had been with Mr. Dundas.

Mr. Erſkine. Mr. Yorke ſaid he was going to Belgium.

Witneſs. He ſaid ſomething of Belgium, or Belgiam.

Mr. Erſkine. You went there as a lover of your country?

Witneſs. Nothing leſs, Sir; I went voluntarily: there were three of my friends ſaid I was very right.

Mr. Erſkine. Who are they? name them.

Witneſs. One, whoſe name is Broughton; another, Mrs. Greſſell.

Mr. Erſkine. You are a maſter linen-draper, I take it for granted?

Witneſs. I am not in buſineſs for myſelf.

Mr. Erſkine. You are a journeyman, then?

Witneſs. No, Sir; I am not in a ſituation, myſelf.

Mr. Erſkine. Yes, indeed, you are, Sir, in a very ſingular ſituation, Sir!

The witneſs then proceeded to give an account of himſelf; he ſaid he was out of employment now. He ſaid he lived with Mr. Gallaway, in Moorfields, who was a linen-draper then, but who is now in the tayloring buſineſs. He came to him in December, and left him in May; that he lived with Mr. Faulding, a linen-draper, on Holborn-bridge; he lived there two years; that he had been applying for buſineſs to ſeveral people; that he had applied at Tynham and James's, in Holborn, and to another perſon in Holborn, facing Gray's-Inn-lane. That he had loſt his buſineſs by his attendance upon this buſineſs, according to his ſubpœna. He agreed with the perſons he ſerved laſt by the year; they were to give him 25l. a year; this was ſome time before his maſter opened his ſhop, which was on the 22d of the laſt month; he could not ſay how long before he opened his ſhop he entered into this agreement with him: it was, he believed, the latter end of July, or the beginning of Auguſt laſt. He told his maſter, the day he had the ſubpœna, he muſt leave him. Mr. Wood ſubpœnaed him. He did not know it would be neceſſary for him to leave his ſituation. He did not apply to the Solicitor of the Treaſury, to know whether he muſt leave his employment, in order to give his evidence at the Old Bailey. He had no other reaſon for leaving his employment than that of attending to give his evidence. He did not apply to his maſter, to inform him, that he was ſubpœnaed, or to know whether he would conſent to his coming here. He kept himſelf out of employment, without knowing whether his maſter would allow him to do ſo. He told his maſter that he was going out of town—firſt to York, then to Sheffield, as ſoon as this trial was over; but that was all out of his own imagination: the reaſon of his thinking ſo was, that he was informed by Mr. White, that he was to go down to York after this ſhould be over. He had not looked out for any employment ſince.

Juryman.

Juryman. "Look acrofs the Court."

The witnefs then proceeded on Mr. Erfkine's interrogation to give an account of himfelf. He faid he lived with Mr. Smith, of Cheapfide; between four and five years ago he was with him, he believed 18 months; he afterwards went into the country, and ftaid there for 11 months, to his friends, who lived at Whiteford, fix miles from Salifbury: he went to his aunt there, whofe name is Alexander. He was afterwards with another aunt, on the other fide of Moorfields, but he could not fay how long; he was there a confiderable while; he was there until he went to Mr. Faulding's. He left Mr. Smith becaufe he had fome words with him.

Mr. Erfkine afked him what words; what was the caufe of their quarrel?

The Chief Juftice. "Why don't you anfwer, Sir."

He hefitated again.

Chief Juftice. "Do you recollect?—If you do, have you an objection to anfwer?"

Witnefs. "No, my Lord."

Mr. Erfkine then again afked him what was the caufe of the quarrel.

The Witnefs then faid that he quarrelled firft with the other fhopman, he believed they might have fought, and that afterwards made him quarrel with his mafter. He then came again to the bufinefs of the Club in Shire-lane. He faid he was fure it was at the latter end of the year 1793, that he went there about 8, and ftaid until 11 or 12. He heard fome converfation about the pikes; but he did not recollect any thing of what was done, except Mr. Yorke's fpeech on the third night. On the fourth night he did not recollect any thing at all that paffed; he went the fifth night and ftaid until they broke up; he did not recollect that Mr. Yorke faid much about the pikes, but a perfon from Sheffield faid, they ought to have fomething inftead of bread and cheefe at 6d. a day; he could not tell whether that was or was not the feventh night he attended.

Mr. Erfkine. "I have done with you, Sir."

Thomas Whiteall fworn.

He was fhopman to a bookfeller; he had lived with Mr. Owen, and went from him to Mr. Baxter, at No. 81, in the Strand. He became a member of the fociety at the latter end of the year 1793; he went the firft time with Alexander; faw Yorke but once, and went himfelf once or twice; after which he difcontinued it, as it interfered with his bufinefs, and was inconvenient on account of fituation—never converfed

with

with Alexander upon the ſubject, and became acquainted with him at Holborn-bridge. Yorke, he ſaid, ſeemed to be very well known at the ſociety. He went away, and left him ſpeaking; but knows nothing of the ſubſtance of his ſpeech.

George Widdiſon.

He ſaid he was a member of the Conſtitutional Society at Sheffield, before they were claſſed into diviſions. He had left them ſome time. He knew Mr. Yorke—he ſaw him firſt above a twelve-month ago. He ſaw him at ſeveral meetings of the Society—he was generally chairman of them when preſent.

[The Counſel for the Crown was about to examine the witneſs to what was ſaid by Mr. Yorke at one meeting, but upon his ſtating that he (Mr. Yorke) was rather intoxicated, he deſiſted.]

He remembered the meeting at the Caſtle-hill, in April, 1793, as alſo the meeting this year, in March. The witneſs was hair-dreſſer to Mr. Yorke while at Sheffield. He remembered converſing with him on the ſubject of arms—it was in April—they talked of ſuch being making. The witneſs himſelf made a dozen and half of ſhafts for pikes; they were ſeized in his houſe, and taken away by Mr. Wilkinſon, the magiſtrate. It was generally underſtood among the ſociety, that thoſe pikes were intended for uſe only in ſelf-defence. Mr. Yorke explained to him, that the reform to be looked for was the extenſion of the elective franchiſe to *univerſal ſuffrage*. He himſelf, and the ſociety, as far as ever he knew, ſo underſtood and purſued their object. In progreſs of time he changed his opinion upon the propriety and expediency of ſuch a meaſure; he told Mr. York his idea upon the ſubject, declaring that ſuch a plan of reform was, in his opinion, impracticable, and carrying things too far; he ſaid he would no longer ſubſcribe to ſuch a meaſure: to which Mr. Yorke replied, he muſt then give it up. He remembered the meeting in April laſt, in the open air; Mr. Yorke was there, and ſpoke at conſiderable length. He was not paid for the pike-ſhafts he had made; he expected to be paid for them only by thoſe who took them of him.

Upon his croſs-examination, he ſaid, he was at firſt in favour of univerſal ſuffrage. At that time he was firmly attached to the King and Queen too. He believed that all thoſe with whom he acted loved the King; he certainly would not have remained of their ſociety otherwiſe. He neither

ther then nor now considered universal suffrage as containing principles adverse to the Crown. The famous plan of the Duke of Richmond was that which was adopted by the Society. Among the many publications, his Grace's letter to Colonel Sharman was read at the society, and adopted by them. A well-known passage out of the letter was read to him by Mr. Erskine, in which his Grace states, that after long and mature deliberation, he was decidedly of opinion, that universal suffrage, together with annual parliaments, is the only radical and effectual cure for the evils crept into our constitution. This, the witness said, was precisely the sentiment borrowed from his Grace by the society; and he firmly believed, as far as he could dive into the hearts of men, that this was their only subject. He never understood that force or violence was intended. He quitted the society not from any idea or apprehension of this kind, but solely from his dissent upon the question of universal suffrage, as being of opinion that the minds of the people were not as yet sufficiently enlightened or prepared for it. He was not present when the society chose a delegate for the British Convention held at Edinburgh; but if he had been, he would have consented thereto, as approving of the measure at the time. He never understood the object of holding that Convention to be any thing else than petitioning for reform. From any thing that passed there, he by no means supposed them as intending to assume the functions of Parliament. He then, and now, considered the majorit of the society as firmly attached to the King. It was th their general idea, that the safety of the monarch and th berties of the subject were inseparable. He never heard thing said of using arms for the intent and purpose of attac ing the King, and putting down the Government. He himself made the pikes for the purpose of defending himself, if necessary. He did so because there was not a goo understanding between the two parties; this he explained as alluding to those who were eager for universal suffrage, and those adverse to that measure. It was intended to defend themselves, not against the magistrates of the country, and the legal force.

He had himself been threatened several times in company. The Aristocrats had said publickly, that if the French invaded the country, they would first put to death their domestic enemies.

He, nor he believed the society, had entertained no intentions inimical to the House of Lords. The only book he had ever seen upon that subject was that written by Major Cartwright. On the whole, he declared himself to be, and believed

lieved the ſociety to have been firmly attached to the King and Conſtitution of the Country. He repeated that he ſaw Mr. Yorke at ſeveral meetings, who always behaved with great moderation, except at the time when he was intoxicated.

Henry Hill.

He was a member of the Conſtitutional Society at Sheffield from the beginning; he was the ſecond or third member. Mr. Yorke viſited them in 1792; he was alſo at the meeting on the Caſtle-hill in 1794. The witneſs, a blackſmith by trade, made a pike from a pattern given him by Davidſon, which was approved of by him. He alſo ſhewed it to Mr. Yorke He made about one hundred and thirty of them. The iron was procured upon Davidſon's credit. He had three-pence a piece allowed him for making them. Davidſon ſaid to him, the pikes might be wanted in London as well as Sheffield; by this he underſtood him to mean, as againſt thoſe who might unlawfully attack them. Davidſon left Sheffield about the beginning of May.

Croſs-examination.

He never had in view, on becoming a member of the ſociety, the oppoſing the King; nor did he believe that others of the ſociety ever entertained ſuch an idea. They adopted and followed the plan ſo ably ſuggeſted and promulgated by the Duke of Richmond. He had always heard them ſay ſo.

The preparation of the pikes was occaſioned by the threats of the oppoſite party. They had carried thoſe threats ſo far, as to come to the houſe where he lodged, and which they called the Jacobin Houſe, on account of the club having ſometimes met there, and threaten to pull it down, and burn it. They had alſo paraded the ſtreets with arms, and fired into ſeveral houſes. This conduct of the Ariſtocrats of the town, and no other, he ſwore poſitively was the reaſon of their deeming it neceſſary to provide arms: not for rebellion, but ſelf-defence.

Thomas Moody.

He had been a regular member of the Conſtitutional Society of Sheffield for the laſt twelve months—he had been occaſionally ſo before that time. Beſide their general meetings, they were ſubdivided into diſtrict meetings.

He knew Mr. Yorke, who acted as orator, chairman, &c. at different times, particularly at the meeting at the Caſtle-

hill. There were ten thousand men present. Mr. Yorke spoke there, but he did not hear what he said, as he was at too great a distance. A carriage was brought for him when the meeting broke up; but the populace took off the horses, and drew him home.

Gamage brought some pike-blades, and bespoke three dozen handles for them; the remainder of the blades were afterwards sent and fitted. He always understood they were intended for self-defence. There had been rumours, that the opposite party intended, and had threatened to disperse their meetings, either without or with the assistance of a magistrate, whom it would not be difficult to procure; and they were resolved to resist such force.

He saw in Gamage's shop a model of an instrument called a cat; but at the Privy Council he heard it called a night-cat. He asked what it was for, and was informed it was an instrument which might be thrown into the street, in order to prevent a horse from passing.

A pike was here produced, which the witness said was such as he had made.

He remembered Davidson asking his permission to have his letters directed to his house, which he consented to; none, however, came so directed.

Cross-examination.

The cat he spoke of was about an inch long, and was merely a model—none were ever made from it. It was laying open in the shop, to the view and observation of every passer by.

He never heard any expressions made use of in the society disrespectful to the King personally; nor did he ever hear mention made of pikes, till the threats thrown out by the aristocrates. If he himself had an idea that any intent had ever been entertained of using those pikes against the King or the Government, he would never have been concerned in making them.

[Here the Court adjourned for refreshment, it being near seven o'clock.]

John Edwards deposed, that a plan had been formed to make pikes and blades at Sheffield, to be used by the London Corresponding Society; and that a meeting had been appointed at the Parrot, in a court in the Old Bailey, to consider of a subscription for that purpose; that it had, at the meeting of a division in the Borough, been proposed to the Society to learn the

the use of the musquet; that a division of the London Corresponding Society met at the house of one Franklow in regimentals, and Franklow appeared in those regimentals at the Globe tavern. There was no proposal for instructing Franklow's association in the use of arms; neither was any such proposition made at any other division.

It was suspected that one Lynam had given information, and therefore the Secret Committee had been dissolved, and a new one appointed to meet in private, to communicate with the society occasionally. The General Committee of Delegates met at Compton-street. A Committee of Correspondence had been appointed between the London Corresponding Society and the Constitutional Society.

He knew of a meeting at Chalk Farm, and was present at it. There were two thousand people assembled there. Several persons of the Corresponding Society were there. Mr. Hardy was in the long room all the time; he did not know what passed there, the business was transacted in another room from that in which the witness was.—He received a paper from Baxter, dated the 29th of April, which was read.—The same day with the meeting at Chalk Farm he supped in Compton-street. There was an anniversary dinner on the 9th of May, at which he was present.

On Hardy's apprehension, there was a proposal to fine a shilling a piece to buy blades for pikes, one of which he had, but it was afterwards destroyed. The pikes were only bought for self-defence.

They were reading the Address of Mr. Pitt and the Duke of Richmond, when the society was assailed by two police officers.

The idea of having a military association was rejected.

Hardy was always a quiet man, and never spoke improperly. He always was against having arms, or pikes. There was no connection between the order for making pikes, and the landing of Hessian troops. The societies had met for two years without interruption.

Samuel Williams proved the existence of an association at Lambeth, instituted by one Franklow, a member of the London Corresponding Society; and that he, Williams, was employed to teach such association the manual exercise.

At eight o'clock the proceedings were resumed, when Mr. Garrow called upon

John Edwards, a member of the London Corresponding Society. The witness said, that he knew the prisoner Thomas

mas Hardy; that he recollects certain orders for Sheffield respecting pikes in April last; that hearing a letter was about to be sent thither, he wished to inclose a few lines to know who would undertake to forge the blades of pikes; that he remembers afterwards reading a letter to Mr. Hardy, which letter the witness had received from Sheffield, explanatory of a plan formed there for pikes; that he had also communicated the particulars of that plan to Spence, Barks, Hillier, and others; that he had proposed the adoption of a similar one in London; that each member who wished to have a pike, was to pay one shilling for it.

Mr. Garrow. Do you recollect of any place in the Borough occupied to learn the use of the musket, &c.?

John Edwards answered, that he had heard of such a place, but did not know the particular spot; that he knew of no subscription for the furnishing of fire-arms; that he had been acquainted with Higgins and Goodwin, who were members; that he believed the society in the Borough had been initiated in the use of muskets, but that he never had attended any of their meetings; that he did not know Bandy Legged Walk (which Mr. Garrow mentioned as the place of their meeting); that he believed Franklow was a member of the London Corresponding Society, but that he did not belong to his division; and that he himself remained a member till taken into custody.

Mr. Erskine objected, at this time, to what might be stated as having fallen from Higgins, Goodwin, or Franklow.

Mr. Garrow persisted in his interrogatories, to which the Court acquiesced.

Edwards, the witness, then proceeded by saying, that he understood there was a corps called the Lambeth Loyal Association, for the purpose of acquiring the use of the musket; that he could not tell what Franklow's association was for; that they wore uniforms which consisted of a Blue Coat and a Red Collar, white Breeches and Waistcoat; that he saw Franklow in that dress at the anniversary dinner, at the Globe Tavern on the 20th of January last; that he knew the division number 20, which met at the Three Tuns, Snow hill; that at one of the meetings, which consisted of sixteen persons, he, the witness, proposed to form a corps similar to that of the Sheffield Association, which was unanimously refused; that this was long before the anniversary dinner now mentioned; that he afterwards suggested the formation of a society like that of Franklow's, but that no person would support or join him; that some time after the Secret Committee was dissolved by consent; that Martin (attorney), Thelwall, Hodgson, and others, were members of the Secret Committee; that they

met

met at their own houſes; that the committee was inſtituted to receive and anſwer letters; and that theſe communications were kept a ſecret from the ſociety at large.

On being farther interrogated, Edwards anſwered, that he was a member of the Committee of Delegates, Compton-ſtreet; that the meeting was transferred to Mr. Thelwall's, No. 2, Beaufort-buildings; that he underſtood the Conſtitutional Society had deputed ſix perſons, and the Correſponding Society deputed five; that the ſociety to which he belonged added one; that thus ſix and ſix met to deliberate on particular meaſures; that he remembered a meeting for the purpoſe of preſenting medals to the Jury who had acquitted Eaton; that he was preſent at the meeting at Chalk-Farm, which conſiſted of 2000 perſons; that he firſt went to Store-ſtreet, that he had cards of admiſſion at the committee, Compton-ſtreet; that the reaſon of his going firſt to Store-ſtreet, was becauſe a room had been there advertiſed for the meeting; that when he arrived at the latter place, he underſtood that Juſtice Addington had been there; that there was no other ceremony at Chalk-Farm, but the transfer of the ticket; that one half of it was given to the perſon at the door, and that the other half was put in his hat; that Thelwall, Lovet, Moore, Richter, Blackman, and moſt members were there; that Mr. Lovet took the chair; that he did not ſee Hardy, the priſoner, there; that he was in the long-room with the ladies; that he knew Robins's Coffee-houſe, Shire-lane, where diviſion No. 29, uſed to meet; that he had been there frequently; that he knew the matter of the paper now preſented; and that what he had ſeen was a different ſized paper, and of a different date.

[Here a very ſhort converſation took place between the counſel reſpecting the propriety of ſuch evidence.]

The paper now alluded to was read in court, and, among other expreſſions, contained the ſubſequent words:—

On the 30th of January, 1794, will be preſented,
A DRAMATIC ENTERTAINMENT,
Called
THE GUILLOTINE,
OR
GEORGE's HEAD IN A BASKET!
To which will be added,
THE PRINCE OF LEEKS!
Among other Actors, were
Mr. FOX, Mr. GREY,
Mr. SHERIDAN, Mr. ERSKINE.
(Loud Laugh)

Chancellor

Chancellor of the Exchequer,
BILLY TAX LIGHT!
Between the Acts, a Song,
TWENTY MORE! KILL THEM!
To conclude with
GOD SHAVE GREAT GEORGE OUR
Vive la Liberté! Vive la République.

On being further interrogated, Edwards affirmed, that he read this bill of entertainment in October, three months before the time appointed for the performance; that after the meeting at Chalk-Farm the witness went to Compton-street, where he supped; that Mr. Thelwall was there; that he never received any information farther than what he has related respecting arming; that he knew Ashley, but never heard any thing from him detrimental to the prisoner; that he was at the meeting at the Crown and Anchor on the 2d of May last; that he received his ticket from Mr. Joyce; that after the other dinner at the Globe Tavern, the address read in the morning was circulated in a printed hand-bill; that he recollects nothing started there respecting the Hessian troops; that he saw no political paper there about the *ins* and *outs*, but that he read one at Three Tuns, Snow-hill; that he never received any paper on that subject from Hodgson; that he had attended Thelwall's lecture; that the price of the pike was one shilling a blade, as he had already stated; that the Friday previously to Hardy's being apprehended, there was to have been a meeting at Green-arbour-court, in the Old-Bailey, which was postponed; that while waiting, they first learnt that Hardy was apprehended; that each member summoned was to have deposited a shilling for his pike-blade; that the only blade at the meeting was that of the witness; that the shaft now in his hand (here the witness examined it) was that on which his blade had been fixed; that he had destroyed the blade, fearful lest it should be discovered in his possession; that he believed Hillier also had a pike similar to that which he had now described; and that he recollected a hand-bill for another dramatic entertainment, which he himsef had suggested, called the Taking of the Bastile, &c.

Mr. Erskine cross-examined the witness, who answered, that he was by trade a silversmith; that he had made a pike for himself; that the only design which he had in the use of that instrument was to resist any illegal dispersion of their meeting; that Mr. Yorke of Sheffield first communicated the idea of a pike; that this was at the same time when the Hessian troops had landed in this country, without the consent of parliament;

and

and the witness solemnly declared, that neither he nor his associates had the most distant idea either of aiding or abetting a rebellion, or of exciting the people to oppose the government.

Edwards further recapitulated, that the sole purpose of the pikes was to repel any attempt at an illegal dispersion of their society, and that he was well grounded in apprehending such an attempt, because the societies had been several times harrassed by the police officers; that once when the society to which he belonged was assailed by the officers, he well remembered that they were busily engaged in reading the Address of the Duke of Richmond and Mr. Pitt in favour of Parliamentary Reform; and that he in his conscience knew these to be so many truths.

Mr. Erskine. "I wish it to be understood that I am no advocate for the Duke of Richmond's or Mr. Pitt's Conscience!"

The Lord President.—"I think this levity unbecoming the dignity of the Court."

Mr. Erskine seemingly assented to what had passed from the learned Lord President; but waxed warm and indignant on hearing

The Attorney General say, "I cannot sit in silence when the Court is harrassed by such frivolous or flippant observations."

Mr. Erskine. "I must tell the learned gentleman, that he uses language here, which he dare not avow in any other place."

The Attorney General. "The change of place or situation will never make me shrink from what I have advanced."

The Lord President. "I lament the intemperate language which has been used; and I am sorry to remark, that Mr. Erskine has betrayed an inclination to inflame, rather than to conciliate, the gentlemen employed in the prosecution for the Crown. I hope, however, that all the learned gentlemen will perceive how necessary it is for the dispatch of business, to have a proper understanding on the occasion."

Edwards, the witness, being interrogated, said, that he was convinced no person meant to make any other use of the pikes, than what he had stated as his own designs; that the Lambeth Loyal Association had been incorporated for that purpose; that he had always understood that Hardy, the prisoner, had conducted himself in a very peaceable manner; that he never heard him make use of any improper expressions; that he never heard him mention any thing about pikes; and that he had always understood that Hardy was an enemy to every kind of violence.

Mr.

Mr. Erſkine. " From whom did you firſt receive the *ridiculous* play-bill now brought forward?"

The Lord Preſident. " *Ridiculous* play-bill! I think it is an *infamous* play-bill."

Mr. Erſkine. " I agree cordially with your Lordſhip. It is a very *infamous* bill! From whom did you receive it?"

Edwards. I ſaw it firſt in the poſſeſſion of Baxter, whom I requeſted to procure me a copy.

Mr. Erſkine. " Do you believe that Hardy, the priſoner, would have approved of ſuch an infamous bill?"

Edwards. " From what I know of Hardy, I am convinced that he would by no means approve, or encourage, the circulation of ſuch a bill."

Mr. Garrow. Were not the pikes formed to oppoſe the landing of the *Heſſian Butchers*, as they were called by certain men?

Edwards. No.

Mr. Garrow. Upon your oath, was your pike begun before that time, and for what purpoſe?

Edwards. All the alluſion which I make to the Heſſians was, that I had begun or finiſhed my pike, juſt at the time when the Heſſians had landed in this country without the conſent of Parliament; and that this inſtrument had been formed to prevent any illegal diſperſion of our Society.

Samuel Williams depoſed, that he knew Hardy, the priſoner, to whom he applied for a ticket for the conſtitutional dinner, but was refuſed, not being a member. He then went to him and beſpoke a pair of ſhoes, and afterwards a pair of boots, and by the introduction of a Mr. Franklow, was admitted a member of the ſociety. He was ſoon appointed to inſtruct ſome five or ſix members in the manual exerciſe, at Spence's houſe in Turnſtile, by candle-light, up two pair of ſtairs. Hardy told him, that Franklow intended to raiſe an armed ſociety, and had the poſt of ſerjeant major, teaching his men himſelf their exerciſe at Lambeth. Williams ſupplied them with ſeven ſtand of arms, for which he was paid by Franklow. He ſaid, that the armed ſociety at Lambeth was compoſed of different perſons from thoſe he ſaw at Spence's, and that they were to have 60 rammers and bayonets complete.

The clerk then read the regulations by which they were to be organized. There was to be 1 Captain, 1 Lieutenant, 1 Enſign, a Serjeant Major, and 60 rank and file, a Fifer, Drummer, &c. &c.

He ſaid, that Franklow appeared in the ſociety with his military uniform; and that it was their avowed intention to obtain a reform by force of arms, if not by fair means.

Mr.

Mr. Gibbs ſubmitted, that this evidence did not apply in the leaſt to the priſoner, Hardy. Where a ſet of men were joined in a conſpiracy, all the parties were accountable for the conduct of any one of them, as far as regarded that ſame conſpiracy; but here was a man, Franklow, who, though belonging to the Correſponding Society, was inſtituting another ſociety himſelf, unconnected, as far as the evidence went, with the matter of this charge. He did not alledge that Hardy either employed him or paid him in this tranſaction.

The Lord Preſident ſaid, that in this caſe ſome ſpecies of evidence may be admiſſible, which had no immediate relation to the priſoner.

Williams then proceeded to ſwear, that a Parliamentary Reform was not the general topic of converſation in their meeting; and that in Hardy's ſhop, and in his preſence, he was conſulted about drilling 1000 men, which he declined undertaking.

The Lord Preſident obſerving, that there was nothing applicable to the preſent caſe in the evidence of this witneſs, he was ordered to ſtand down.

——— *Saunders* examined.

On the 2d of April laſt, he went to Shelmedy's in the Borough, where there were ſeven or eight ſtand of arms, and twenty-ſeven or twenty-eight men of the Correſponding Society, as he thinks, but knows that many of them were of that deſcription. From the 11th of April to the firſt of May, he attended at St. James's, and the *ſhed* at Weſtminſter, where he was drilled with others, by *Williams*, *Franklow*, and *Augh*.

On the 2d of April, he heard ſome members declare, that a Parliamentary Reform muſt be carried at the point of the bayonet. In a diviſion which met on May laſt, in Shire-lane, he heard a member ſay, myſteriouſly, that Pitt went over the bridge at twelve o'clock, but did not know what bridge was meant by it. Another announced the defeat of the Britiſh army as a piece of good news; and on hearing that one of the King's meſſengers was killed, a third declared that he would rejoice in his fate, were it his own father or his brother.

In his croſs-examination, he acknowledged that he was a ſpy, but ſaid he was led into the ſociety by means of a bet. He did not then know who uſed the expreſſion of carrying reform at the point of the bayonet. It happened in general converſation.

Edward Goſling examined.

He became a member of the London Correſponding Society in April 1794, in conſequence of ſome ſeditious publications

 which

which he saw by them, and after a conversation upon the subject with Mr. Wickham, a magistrate. When he was admitted on the 15th of April, at Clerkenwell, there were about 30 members present. It was the day after the meeting at Chalk Farm. The members talked much of the fate of Charles I. and being, as he supposed, elated after the meeting, they also declared that the British Convention, like that of France, must be supported by arms. He went afterwards, with Hillier, to visit Dr. Hodgson in Newgate, with whom he was before unacquainted, and there were a number of persons present. Hodgson asked him, if he had seen the New Constitution of the Corresponding Society? and he replied, that he had not, as he was a very young member. Lloyd, one of the prisoners then in Newgate, was of the party. One of the toasts given, was,

"The world a republic or a desart."

Hodgson said, amongst other things, that he hoped soon to see a revolutionary tribunal established in this country.

The same evening, April 25, he went to meet the 11th division, where Wright, the delegate, said, that he was provided with his arms, and so should the other members. Gordon, the secretary, who is since gone to America, assured the society that he was sorry to leave them at a time that they were about to act as well as think, and to regenerate their country.

He accompanied Hillier to his own house, where he shewed him, and others, the drawings of pikes, knives, &c. which he said were the instruments soon to be made use of. He added, that the principal dependance of the society was in seizing upon the persons of the Royal Family, and the members of both Houses of Parliament, after which, nothing was to be apprehended from the army, as they would have no leaders to refer to, and that they could not fail to be allured by the additional pay of eighteen-pence a-day, instead of six-pence. One of the parties in this conversation was very much in liquor, but the rest were all perfectly sober.

At Hillier's house, on the 9th of May, he met with Hill, Bennet, and Baxter. The last said, that he had been with Mr. Joyce, Chaplain to Lord Stanhope, who assured him, that though the ministers had taken up Stone, he was a man of sufficient firmness to remove all apprehension. Baxter also said, that the committee of correspondence and co-operation was drawing up an address to the armies, accompanied by some strong resolutions; that a person of the name of Moore, was particularly active and successful in gaining over the military; that of the old soldiers in Westminster, one third was already gained, and the other two would not act against them. Baxter said, he saw an officer, lately introduced to the Queen, who, in

in speaking of Her Majesty, used language which the witness could not repeat, and demanded why they did not send the whole family to the devil, or words to that effect.

One of them asked the witness if he would buy a pike? He answered that he would, if he knew how to make use of it. He then desired him to go to the sign of the Parrot, in Green Arbour-court, in the Old Bailey, and, using his name, ask for Mr. Edwards, who would come out, and not only furnish him with a pike, but also have him instructed in the use of it. He asked if a Reform could not be effected without coming to blows? Baxter replied, there is not a man in the Society who believes that a Parliamentary Reform is all we want; and without having recourse to the sanguinary measures of the French Revolution, may be brought about in a few hours. He did not wish the King or any of the Royal Family to be killed. They may be sent to Hanover; but at the same time some blood must unavoidably be shed, on account of the insults offered to the people, which human nature could not bear.

He said that the heads of many thousand pikes were manufacturing at Sheffield, but that the stocks would be made in town. That silence, however, should be observed in the divisions until the new constitution should be established, as there were spies amongst them. A part of the plan was to set the French prisoners of war at liberty, and if the emigrants made any opposition, they should share the same fate, that the Swiss did in Paris. Mr. Pitt, Mr. Dundas, and Mr. Reeves, were mentioned amongst the enemies of the people, whom it would be necessary to secure. The purport of the address to the army was to sow jealousies between the British troops and the French emigrants, to explain to them the severity of their treatment, and propose, on the part of the societies, more lenient usage, and to have their pay increased to 1s. 6d. per day.

On May the 14th, he attended another meeting at Hillier's, but as that was subsequent to Hardy's being taken up, Mr. Garrow did not think the present was the propereſt time for offering it in evidence.

Croſs Examined.

Is by profession in this business of an informer, and in the writing way; was a dealer in naval stores, but did say the direct contrary of this to Mr. Worship. Never said he lived by cheating the King; did not always go by his name; went by the name of Douglas ten years since, and was in that name a hairdresser seven years in Petty-France, No. 3; took the name from pride, his father being in the wig and shaving way, who kept

ſeveral journeymen. *Played* the part of Douglas ſeven years; knew Mr. Lincoln, borrowed money of him (a twenty pound note) four or five years ago; and gave him a note in the name of G. Douglas, and paid part by himſelf and part by his wife.

Here the croſs examination was interrupted by Mr. Garrow, who ſeeing or fancying that he ſaw Mr. Macnamara, who ſat not far diſtant from the priſoner, uſing ſome geſtures to embarraſs the witneſs, requeſted that he may be accommodated with a ſeat upon the bench if he could not be quiet.

Mr. Macnamara wiſhed to know in what he was not quiet.

Mr. Garrow explained, that as he appeared to be communicating with the Counſel againſt the proſecution, it was right that he ſhould do ſo in the full face of the Court, as the witneſs was already ſufficiently agitated by the nature of the examination, without the intervention of a gentleman of ſo much conſideration, and once a Member of Parliament.

The witneſs then proceeded to ſtate, that he told Worſhip he was a dealer in naval ſtores, becauſe he told him if he was a Clerk he would not give him what he wanted, but did not ſpeak againſt the King, or uſe inflammatory expreſſions in the ſocieties; ſwears poſitively, that he never ſaid, why do not you arm? He knew a Mrs. Colman, who rented a ſhop of him, died at his houſe, and he buried her; ſhe left a will, leaving her property to Burrows and Leech; don't know Mrs. Biffin; he heſitated to anſwer whether there was a complaint made againſt him reſpecting that will; Leech was a hair-dreſſer, and Burrows a relation; he (the witneſs) made the will; never heard that he was charged with having forged that will; knew Mr. Cox, a cheeſemonger, with whom he dealt, for a ſhop his wife kept; never dealt in naval ſtores, though he did in paper ſtuff; did not ſay that he got things for a fifth of their value, by feeing the keeper to under-ſell them; did not tell Hillier that he was in the habit of ſtealing; but whatever he told him was for the purpoſe of extracting information from him.

The points of character being diſcuſſed, Mr. Erſkine, though he exerted great ingenuity, was not able to extract from him any obſervable variation in his firſt teſtimony.

Mr. Garrow, to explain the circumſtances relative to the affair of Mr. Macnamara.—The priſoner gave the following account: He gave a note to Mr. Lincoln for 10l. or ten guineas, of which there remained about four guineas due, and no demand was made upon him till the preſent proſecution was inſtituted. Mr. Macnamara met him at the London Coffee-houſe, told him he was a man of conſiderable property, and a friend to the Conſtitution; but that he would ſee

juſtice

juſtice done, and the debt owing to him would be ſpoken of in Court.

The witneſs ſaid, that he was a ſtranger to Mr. Macnamara, and that they were in an improper place for entering upon explanations. Mr. Macnamara uſed no other threat.

Mr. Garrow then aſked him if he had been under any proſecution for the forgery of the will to which Mr. Erſkine alluded? The priſoner anſwered in the negative.

Here the buſineſs concluded, the Jury again remitted to ſleep at the Hummums, and at Two o'clock in the morning the Court adjourned to Eight.

FOURTH DAY.

Friday, October 31.

The Court met at nine o'clock, and Mr. Hardy being placed at the bar,

Mr. Attorney General produced two papers found at the priſoner's houſe, dated July, 1792, and addreſſed to a Mr. Rouſſel (now in Newgate) as a Member of the Conſtitutional Society. It would appear that theſe papers were produced merely to prove that Rouſſel was implicated in the alledged conſpiracy.

Bernard Bailey proved the ſeizure of two papers at Rouſſel's apartments. One of them was a ſmall pamphlet, containing directions for learning the manual exerciſe. It was intended as a gloſſary to the engraving that was produced laſt night, deſcribing the different poſitions in platoon firing.

The other was a ſong, which, without any imputation of blame to the Counſel on either ſide, happened to be read before the Court perceived that it was not legal evidence, inaſmuch as it had been ſeized ſubſequent to the apprehenſion of Mr. Hardy.

The Court and the learned Counſel regretted this circumſtance exceedingly, and hoped the Jury would endeavour to expunge it from their minds. As to the book, it appeared by the title page to have been printed previous to the arreſt of the priſoner, and it was thought proper evidence.

Several papers found on Meſſ. Thelwall and Martin, after the priſoner had been taken up, were produced. They were judged good evidence, becauſe they related to the buſineſs at

Chalk

Chalk Farm, and appeared to have been prepared for that meeting in April last.

Mr. Gibbs begged to state the question, whether, in the present instance, it came within the rules of evidence, to bring forward papers, bearing date the 19th of May, as Hardy, the prisoner, was taken up on the 12th of that month.

Chief Justice Eyre said, that certainly the paper which had been read, might have been printed after the Prisoner was in custody, and the circumstance of it's having been found was no proof that it had existed before the period of his apprehension, except evidence could be brought to prove that it was then in existence.

John Groves was then called, who deposed, that he was present at a meeting of the Corresponding Society, on the 20th of January, 1794; that he was afterwards desired, by a particular gentleman, to become a member, which accordingly he did. The name of this gentleman he had no objection to mention, but was told by the Counsel for the prosecution that there was no occasion. At the meeting where he first attended, *Martin* was in the chair, an Address was read, and a great many toasts given, which he did not now recollect.

Q. Do you remember any part of the conversation in the first meeting, at which you were present?

A. There was a general talk of Universal Suffrage and Annual Parliaments.

Q. After you became a member of the Society, what was publicly professed to be their object?

A. A Reform of Parliament.

Q. What were the means by which they proposed to attain that object?

A. By enlightening the minds of the lower classes, in order that they might arrive at the knowledge of their natural freedom.

Q. What particular means did they take in order to enlighten the people?

A. Chiefly by distributing pamphlets suited to their capacities.

Q. Do you not recollect the names of some of the persons, who were so loud in the causes of Universal Suffrage and Annual Parliaments?

A. I cannot mention their names: it was the general voice of the Society.

Q. Did you never hear any thing started on the subject of arms?

A. I never did.

Q. Were you present at any of Thelwall's Lectures?

A. Yes,

A. Yes, I was two or three times present.

Q. What was the subject of these Lectures?

A. A general abuse of Administration.

Q. Did he not touch on the branches of the Legislature? how did he speak of the King?

A. In terms of contempt.

Q. Do you recollect any of those terms?

A. He called him a Solomon.

Q. How did he express himself of the other branches of the Legislature?

A. As entirely corrupt.

Q. Did he say then that they ought to be destroyed?

A. No, but they ought to be new modelled.

Q. What means did he recommend for that purpose?

A. Annual Parliaments and Universal Suffrage.—The witness then proceeded to state, that he was present at the meeting of the Corresponding Society at Chalk Farm, on the 14th of February. Lovatt was in the chair; a letter was read from the Friends of the People, and an Address proposed; some printed papers were delivered to the persons present. He was asked if he had any of these printed papers about him, and upon answering in the affirmative, was required to produce them. The printed account of the proceedings at Chalk Farm was then read.

Q. How was the letter from the Society of the Friends of the People received?

A. With universal silence and hissing.

Q. Did you go to Chalk-farm in company with any person?

A. Yes, with Mr. Thelwall.

Q. Where was the meeting first to have taken place?

A. It was proposed to have taken place at Store-street.

Q. Why was it afterwards changed?

A. I was told by Mr. Thelwall it was only to be given out that it was to take place at Store-street, because they were afraid that the magistrates might interfere; accordingly at the door of the house, there was a notice stuck up that it was to be held at Chalk Farm.

Q. Who were the principal persons who spoke and acted at the meeting?

A. Lovatt, Thelwall, Richter, Hodson.

Q. Do you recollect any thing being said about spies?

A. Yes, Thelwall said that he would permit all spies to be present at that meeting, for the account they would have to carry home of the numbers of the Corresponding Society, would be no very agreeable news to their employers.

Q. Do

Q. Do you recollect in any resolution that passed on that occasion, the phrase British senate being objected to?

A. Yes.

Q. Do you recollect any thing that Hardy said at the meeting?

A. I recollect him only to have uttered three words.

Q. What were these?

A. While Richter was reading the resolutions, he stopt to make some remark of his own, when Hardy said, "Read without comment."

Q. After the meeting was over, where did you adjourn to spend your evening?

A. I adjourned along with Thelwall to the public-house in Compton-street, where the division met, and there indeed I heard something that much astonished me; for Thelwall taking up a pot of porter, and cutting off the head, said, "Thus would I have all Kings served," or "Thus I would serve all Kings," I cannot exactly recollect which of these expressions he used.

Q. Was there any particular toast afterwards given?

A. Yes; Thelwall gave, "The Lamp iron at the end of Parliament-street;" and called upon another person to cover it, who gave, "And at the Treasury Bench."

Q. Do you know a person of the name of Green, or recollect any particular expressions which he used?

A. Yes; he once said, "That the pretexts of annual Parliaments and universal suffrages were only ladders to gain their ends."

Q. Did Green ever shew you a knife of a particular construction?

A. At the meeting at Chalk-farm, I was sitting in a box, about ten, and was rather surprised at remarking that five or six of them produced out of their pockets, small instruments exactly corresponding with each other. These resemble what the French call *couteau secret*; opening with a spring, and not apt to fly back. One of the company remarked that these were bread and cheese knives, at which I could observe a smile upon their countenances. I was told that I might have one at Mr. Green's shop, Orange-street, Leicester-fields; I went there about a week after; he told me that he had sold about two or three hundred of these knives, and, the parlour door being open, desired me to speak very low, "*For*," said he, "*My Wife is a damned Aristocrat.*"

Upon being asked whether he recollected any thing further of the proceedings of the society, he said, that at one meeting at which he was present, an application was made to grant some

ſome relief to Dr. Hodſon, then confined in Newgate, but was refuſed, and the reaſon aſſigned, was, on account of his extreme violence, and he believed, it was alſo mentioned that he was no member of the Correſponding Society. He was preſent at the dinner of the Society for Conſtitutional Information, held at the Crown and Anchor, on the ſecond of May laſt. He ſtated, that Hardy brought him a ticket for that dinner; he put his hand into his pocket, but was told that there was nothing to be paid for it. Previous to the company having aſſembled to dine, ſome very bad news had arrived from the Continent, and ſeemed to diffuſe an air of general ſatisfaction. A copy of a ſong was delivered to every individual of the company, and there was likewiſe a paper laid on each plate, but its contents he did not recollect.

Q. Who was in the chair?

A. Horne Tooke.

The Counſel deſired him to recollect himſelf, and that he ſaid he believed the chairman was not Horne Tooke, but Mr. Wharton, Member of Parliament.

Q. Had you any muſic?

A. The moment the company entered the dinner-room, the air of *ça-ira* ſtruck up, and continued to be playing during the whole time of dinner, being repeatedly encored; it was followed by the Marſeilles march, and the Carmagnole.

Q. What effect did theſe airs produce upon the Company?

A. They called forth an univerſal peal of approbation; the clapping continued ſo loud and ſo long that hands ſmarted, and ears ached.

Q. What took place after dinner?

A. Horne Tooke got up; he ſaid that there were in the room ſome government ſpies, and thoſe he wiſhed in the firſt place to addreſs. To this I particularly attended.—He deſired the company to remark that he was not in a ſtate of inebriation, for having ſomething to ſay, he had taken care to refrain from the indulgence of his glaſs. He then proceeded: he called the Treaſury Bench a ſcoundrel ſink of corruption; and the oppoſition, a ſcoundrel ſink of oppoſition; he ſaid there was a junction between theſe two parties for the purpoſe of deſtroying the Rights and Liberties of the Nation. He then, ſpeaking of the hereditary nobility, aſked, whether that ſkip-jack Jenkinſon could be conſidered as one of the hereditary Nobility.

Q. What did he ſay of the Houſe of Lords?

A. If my memory ſerves me right, he paid them much the ſame ſort of compliment, which he had already paid the Houſe of Commons.

Chief Juſtice Eyre.—" Sir, in giving evidence, do not uſe that language, in talking of the ſame ſort of compliment; confine yourſelf to facts and expreſſions which actually were made uſe of."

Q. How did he expreſs himſelf of the King?

A. He called the King *a poor man*, but whether to amuſe or abuſe I know not.

Q. How was his ſpeech received?

A. With great applauſe.

Q. Was there any ſong ſung upon the occaſion?

A. Yes; there was a ſong to the tune of " God ſave the King," but I do not recollect whether it was ſung by Horne Tooke, or whether he only added a verſe, which he ſaid had been forgotten. This was the ſong of which a copy was handed about to each of the company, previous to dinner.

The Attorney General. This was the ſong, a copy of which was read in evidence in the proceedings of yeſterday.

Croſs-examined by Mr. Gibbs.

Q. Mr. Groves, what are you?

A. I have been a conveyancer for theſe two or three and twenty years.

Q. Are you a ſolicitor?

A. I am not a ſolicitor in chancery.

Q. I did not aſk whether you were a ſolicitor in chancery, but whether you were a ſolicitor. You do not anſwer; do you not underſtand the meaning of the queſtion? Are you not a ſolicitor at the Old Bailey?

A. I am; I did not indeed at firſt underſtand the meaning of your queſtion.

Q. What, you forgot then that you were a ſolicitor at the Old Bailey, and thought it a ſatisfactory anſwer to my queſtion to tell me that you were not a ſolicitor in chancery?

A. I intended to give a direct anſwer.

Q. I have no doubt that your ignorance was involuntary; it was very natural that you ſhould forget your profeſſion in the court where you practiſe; but when did you firſt attend the meetings of the Correſponding Society?

A. In the month of January.

Q. You were ſent, you ſay, by a gentleman?

A. Yes, I was employed to attend by a gentleman high in office, for the purpoſe of procuring information. At the ſame time I muſt remark that I was not deſired by that gentleman to conceal his name.

Q. What is his name?

Witneſs

Witneſs (addreſſing the Chief Juſtice.) "My Lord, is it a proper queſtion?—If it is, I am ready to anſwer it."

Mr. Gibbs—"If it was an improper queſtion, I would not have aſked it."

Chief Juſtice Eyre.—"Mr. Gibbs, he has admitted all that is neceſſary for your purpoſe, by ſaying that he was ſent to theſe meetings to procure information. I conceive that it would not be expedient to anſwer your queſtion, as he has confeſſed that he was employed by a perſon high in office, and to require from him the name of his employer, might lead to a ſort of diſcuſſion, which has nothing to do with the preſent trial."

Q. How aroſe your connection with your employer?

A. I have had the honour of being perſonally known to him for theſe ten years, during which I have enjoyed his confidence. That gentleman would not employ me on any thing diſhonourable; he made uſe of me in order to procure neceſſary information, and I have very different ideas of the nature of that engagement, from what are generally entertained.

Q. I dare ſay that the gentleman would employ you on nothing which you conceived to be diſhonourable, as well as that your ideas on the ſubject are very different from thoſe which are generally entertained. But from the amount of all you have ſaid, am I to underſtand that you never were preſent at any of the meetings, except in the character of a ſpy?

A. If to be employed to procure neceſſary information deſerves the appellation, I muſt be content to bear it.

Q. Then you confeſs that as a Spy——

Chief Juſtice Eyre. "Mr. Gibbs, he has admitted that his object was to diſcloſe information, I muſt object to any name of that ſort being applied to a witneſs."

Q. You went then to pick up information, and carry it to your employer?

A. I did.

Q. You ſay that there was a large company at the firſt meeting that you attended?

A. So very numerous that the floor broke down, and we were obliged to remove to another room.

Q. And how happened it, Sir, that you, going there as you did to collect information in order that you might afterwards be able to bring it forward in evidence againſt individuals, made yourſelf maſter of no particular fact, of no expreſſion which can be made the ground of a direct perſonal charge? Did you conceive it ſufficient for the purpoſe of individual examination that you ſhould bring ſuch evidence, as,

 that

that there was a general clamour for universal suffrage, and annual parliaments?—

Chief Justice Eyre. "Mr. Gibbs, you go beyond the bounds of cross-examination. You are only to probe into all facts, and to endeavour to bring forward such as have not come out in the course of the examination. You ought not to introduce such a periphrasis as you have just now done."

Mr. Erskine. "I do not conceive that my learned friend has exceeded the usual limits of cross-examination. What he addressed to the witness may be taken as a question. "How do you, having been employed for the express purpose of procuring information, account for being so deficient in your knowledge of particular facts?" I have now practised these seventeen years, and I recollect an instance when a learned Judge (Buller), now on the bench, presided, Mr. Garrow, who was then introduced to the bar, at which he now ranks so high, put a question to a witness, to which I objected; it turned out to be in the course of cross-examination, and the laugh was raised against me."

Judge Buller. "I confess, that a greater latitude has been introduced into cross-examination than, perhaps, is proper. It has, in some degree, been sanctioned by practice. It is allowable to lead the evidence to the point to which counsel may wish to bring him; but certainly not to put words into his mouth which make directly against himself."

Chief Justice Eyre. "In all these cases my judgment is, that it is the business of counsel to get at the particular. Any remarks on the nature of the evidence ought to be reserved to their proper place, in the reply."

Mr. Gibbs. "I am happy to find myself supported by the authority of my learned friend, with respect to the practice; though, I confess, my Lord, that I feel myself considerably mortified, to have incurred any remark from you, with respect to my mode of conducting the examination."

Chief Justice Eyre and the Attorney General took an opportunity to profess the highest esteem and respect for Mr. Gibbs, in his professional capacity; and the cross-examination proceeded.

Q. You are then employed in the law?

A. I have not practised these six months.

Q. You do not mean to say that you have declined practice, but that no business was brought to you?

A. Such has been the case.

Q. So indeed I supposed. How happened it at the meeting at the Globe Tavern, of which you have given an account,

you

you do not recollect any of the expressions used by particular persons?

A. When I first went there, I was a stranger to almost every person in the company, and could not, therefore, discriminate the particular speakers.

Q. You went afterwards, you say, to Chalk Farm?

A. Yes.

Q. On that occasion, you seem to have fixed yourself on Thelwall?

A. No; he fixed himself on me—we met at the door of the house in Store-street, where the meeting, which afterwards they thought proper to adjourn to Chalk Farm, was originally proposed to have been held, and Thelwall seeing me there with a view to attend, said, "come along."

Q. Was there not at that meeting a great cry against spies?

A. Yes.

Q. I suppose then that you joined in that cry?

A. I certainly did.

Q. Did you see any person whom you knew?

A. Yes.

Q. What was his name?

A. Walsh.

Q. Was an enquiry made to you respecting your knowledge of him?

A. Yes; I was asked who he was, and I answered I knew him to be a person employed by government.

Q. And you told him that he had come there to procure information?

A. I did.

Q. So you admitted that he was a spy?

A. I did.

Q. You conceived him on that occasion to be there in the same capacity with yourself; for the purpose of making discoveries?

A. I did.

Q. You said that you knew he was a person employed by government, and a spy?

A. I was carried across the garden by some of the members who suspected him, for the purpose of telling who he was; besides he had the words *King and Constitution* inscribed on his buttons.

Q. So you admitted a person in the same situation with yourself employed by government, and with the words King and Constitution inscribed on his buttons, to be a spy. Was you not afraid by this declaration to expose your friend to the

hazard

hazard of being torn in pieces, by the persons, at whose expence he came to make discoveries?

A. Had I not made the declaration, I might have been myself suspected.

Q. Oh! it was only a fetch of cunning in order to conceal your own character; and I think you told us before, that Mr. Thelwall had said, he wished all spies to be admitted. What might be the number present?

A. I suppose about two or three thousand, of whom however only about eight or nine hundred belonged to the Constitutional Society. The others were drawn there by curiosity.

Q. At that meeting you saw some knives of a particular description employed by the company in eating bread and cheese. Had not you often seen such knives before?

A. I certainly had.

Q. Did not you know that they were exceedingly common?

A. Certainly I did.

Q. You were afterwards, you say, present at the Crown and Anchor, on the 2d of May?

A. I was, and was very much astonished to find, on entering the room, so great a number of respectable gentlemen assembled.

Q. I have no doubt you was; but how did you contrive to get into their company?

A. I have mentioned that I had been presented with a ticket for the dinner by Mr. Hardy.

Q. You are not certain who was in the Chair?

A. I now recollect that it was Mr. Wharton.

Q. Did Mr. Horne Tooke, in the speech which he made on that occasion, and of which you gave some account, speak highly of the ancient hereditary nobility?

A. Yes; he paid them every compliment.

Q. Did he not also remark that the ancient nobility had lost their due influence in the country, in consequence of the new nobility (I do not wish to make any offensive allusion to individuals) introduced by those upon whose conduct he had been adverting in the House of Commons?

A. I now recollect he did.

Q. Did he not also speak highly of the office of King in the Constitution?

A. I am clear he did, for he lamented the circumstance of the new nobility, in conjunction with a corrupt House of Commons, continuing, as he expressed it, to amuse that poor man, the King.

Q. Did he make any other complaint then against the Constitution, except that persons were introduced into the House

of Commons, and by this means into the House of Peers, who restrained the due privileges of the crown, and deprived the King of his proper weight in the Constitution?

A. I perfectly recollect that he made use of those expressions.

Mr. Gurnell was next examined. He proved that a paper, which was put into his hand, was found in the possession of the prisoner at the bar. On that paper was written a song to the tune of "The Vicar of Bray."

After this song was read,

Mr. Erskine observed, that it was sent to Mr. Hardy by somebody or other in a letter.

John Thompson produced a pike, which he said he found in the possession of one Hillier on the 18th of May last. The handle was about six or seven feet, and the blade about 10 inches or a foot.

Camage, who had been before examined, was again called. He had seen Margarot in the Tolbooth of Edinburgh, and on his table he perceived a knife with a spring similar to those which Mr. Groves saw at Chalk-farm. It appeared to be a knife that opened with a spring, nine or ten inches in length. It was very hard to shut after it was once open.

On cross-examination by Mr. Erskine, the witness said he never saw a knife of that kind before. It lay on the table, and Mr. Margarot eat his dinner with it. It was in no way concealed; and there were six or seven people present. It did not strike the witness that there was any thing wrong in it. It was a curious knife, and Margarot shewed it to him.

George Lynam deposed, that he became a member of the division, No. 12, at the sign of the Mansion-house. He received rules of the Society, and an address; did not know the date, but believed it was in March, 1792. The division of the society adjourned from thence, in consequence of intimation given to the landlord, to the Crown in Newgate-street.

[This witness gave a very dry and tedious evidence, from several books which he had filled with memorandums of the proceedings at the different meetings and divisions.]

The next meeting was at the Unicorn, Covent-garden; the room was full, and from seventy to eighty persons were present. Hardy was there, whom he understood to be the secretary. This was a meeting of division No. 2. There was brought forward Tom Paine's address to the French people, which was reported and ordered to be printed, and delivered out to the divisions of the society. It was also ordered that a

paper

a paper, entitled The Rights and Duty of Man, ſhould be continued weekly. He next read an extract from his notes, deſcribing the mode in which the ſociety and diviſions did their buſineſs. The next meeting was on the 31ſt of October, at the Crown, Newgate ſtreet, where the addreſs to the French Convention was reported and agreed to. A letter was read from the editor of the Sheffield paper, at the diviſion No. 2, at the Boar, which ſtated that it would be good to ſend down delegates to teach the farmers politics. A delegate from diviſion No. 11, made a report that the ſociety at Stockport approved of the different proceedings of the meetings of the Correſponding Society.

Lauzun, the meſſenger, proved the finding a paper in the priſoner's houſe, ſigned "Hardy" dated Monday May 1, 1792, appointing him a delegate to one of the diviſions, in which office he was to continue three months.

Alexander Grant proved the hand-writing.

Lynam continued his evidence by adverting to what paſſed at the meeting of the Crown, Newgate-ſtreet, at which nothing material occurred.

He was interrupted by Mr. Bower, as to what paſſed at diviſion No. 2.

A. An inflammatory letter was read from Joel Barlow to the National Convention, and loudly applauded, and the report was made from the committee of delegates. It was alſo reported, that the London Correſponding Society amounted to nine thouſand in number; and that the diviſion No. 14, Spitalfields, was increaſing, and was in number equal to any other diviſion. The firſt meeting of the ſociety, he ſaid, was at R. Boyd's, Exeter-ſtreet, when a letter was read from Major Johnſon, that he did not approve of the letter to the Convention, but that he would prepare one. It was reported by a delegate, that the addreſs of the ſociety was approved by the National Convention, and ordered to be ſent to the eighty-five departments. At this meeting there was much talk about Judge Aſhhurſt's charge to the Grand Jury. He was himſelf a delegate, and it was recommended to him to ſtate that it was neceſſary to publiſh that the ſociety were not levellers, on account of the magiſtrates interfering with the publicans, and threatening to take away their licences.

The witneſs ſtated the proceedings of the general committee of delegates from the ſeveral diviſions of the Correſponding Society, at their meetings during the year 1792; but nothing material turning on them, we forbear to repeat them. At the meeting of the delegates in Compton-ſtreet, on the 10th of January, 1793, a letter was read from the Friends of

of the People, addressed to the society, in which they recommend to the society, to abstain from foreign parties and correspondence, and to confine themselves to attending to domestic concerns; by which means they would avoid the imputation of being considered as levellers. On this it was resolved by the society to put an end to all further correspondence and communication with the Friends of the People. On the debate on this question, Mr. Bell said, their address to the National Convention of France evinced their intention of adopting the laws of that country; to which Mr. Margarot added, No doubt.

Meeting 14th Jan. The prisoner acquainted the society he had sent 30 copies of their address, together with 12 copies of M. Kiersant's speech in the National Convention, into the country to be dispersed.

Meeting 31st Jan. Mr. Baxter made a motion, that out of each person's quarterly subscription, six-pence should be applied to the use of the division to which he belonged, and seven-pence for the defraying the charge of rent for the rooms where the poorer societies met. This, it was remarked by a member, was a good plan for the support and encouragement of the poorer divisions, such as Spitalfields, Moorfields, who were very numerous, and it was absolutely necessary, in case of resistance, to encourage and support them. This the witness stated, not from his notes, but from recollection. These divisions were, he said, as many in number as all the other divisions put together. At another meeting it was moved and resolved, that the surplus of their subscriptions in hand should be applied to the discharge of the rent of the meeting-room of the above division, (Spitalfields) and the same reason assigned at the time, their poverty, and in case of war they would be serviceable. Being called on to explain what was meant by the word *war*, he said it was understood at the meeting to mean a rising in the country.

Feb. 14. At this meeting the measure of a petition to Parliament was agreed to upon the subject of reform. The delegates from the Borough, and the Friends of the People, were not for going so far. The Holborn society were for republicanism. There were three objects under consideration of this meeting—to petition the King, to petition the House of Commons, or to call a Convention.

Feb. 19. The petition to Parliament was further discussed.

Feb. 21. It was stated, that if their petition to Parliament for reform was rejected, then they might petition the King. A letter was read from the Friends of the People, dated 15th of February, and addressed to the society, in answer to one

 from

from them of the first of February. It stated that their plan would soon come forward. Their object was to create an organ which should speak to the legislature :—it stated the resolutions of the society not to give up it's power of action to any other society—the time of action may not be very far distant.

Feb. 28. Thanks voted to Mr. Fox, and the minority of 44, in the House of Commons—as also to Lord Lauderdale —for their spirited exertions in the cause of the people.

March 14. The meeting resolved, that the petition to Parliament should be drawn up on parchment, one for each delegate, for the purpose of trying what coffee-house would take it in, in order to procure signatures to it.

March 21. There was a notice communicated to the society, expressive of an apprehension that they would be taken up. A letter was read from a society from Birmingham, dated March 15, requesting to correspond with the society, and urging them to persist in their petition to Parliament. A motion was made by Mr. Margarot, to print the address written by Mr. Friend, accompanied by remarks and comments on particular passages.

March 28. A select committee was appointed to draw up laws for the guidance of the society: the committee were to submit those laws, when digested, to the consideration of the several divisions, for their approbation. A resolution was entered into to write to all the societies throughout the kingdom, requesting their co-operation in the general cause. It was also determined, that bills should be stuck up in various parts of the town, during the night, requesting signatures to the petition to Parliament. It was likewise resolved, that application be made to Mr. Francis to present the said petition.

April 29. The anniversary dinner of the society was held at the Crown and Anchor tavern, in the Strand. The Witness was present at it. There were many who talked very boldly. They seemed assured that a revolution would soon take place. Several toasts were given, which the witness read, but which have been long in possession of the public.

May 2. At the meeting of the delegates at their usual place in Compton-street, a letter was read from Mr. Francis, in which he states, that by radical reform, the term used in their intended petition, was generally understood universal suffrage —a measure to which he was certainly no friend. He however consented to present their petition.

The witness was here asked, and stated, that a new election of delegates from the several divisions of the London Corresponding Society had taken place in the preceding March.

Lauzun,

Launun, the messenger, was called to identify a paper found by him in the possession of the prisoner, among his other papers. It was a letter signed C. J. Fox, in answer to an application from the society, in which he stated, that having never refused to present a petition from any of his constituents, he would present their's, although repugnant to his ideas, as he conceived that by radical reform was generally understood universal suffrage, to which he declared himself adverse.

[Here the Court adjourned from four o'clock to half past five.]

Upon the resumption of the Court, *Lynam* proceeded in the detail of his evidence out of his written documents.

May 16. At the next meeting of the delegates, an anonymous letter, addressed to Mr. Hardy, as secretary to the society, was read, expressing his patriotic zeal, his good wishes for the society, apprehensions for their safety, and exhortations for spirited but prudent conduct. A motion was made for drawing up a remonstrance against the war. It was urged, that if a petition appeared against the war, it would serve to refute the idea of it's being a popular one.

May 23. A proposition was made for calling a general meeting. An address to the public was likewise proposed. Le Brun's Letters to Lord Grenville were spoken of as proper for publication; but the matter was postponed, lest it should appear as if they held communication with France.

May 30. At this meeting Mr. Hardy proposed to the society to break up for three months. This proposition was negatived.

June 6. A public meeting was talked of, to be advertised. There was to be no dinner. The meeting to be called for five, and proceed to business at six in the evening. Thanks were voted to Mr. Wharton, for his speech in Parliament upon reform, and ordered to be printed four times: the speech itself was ordered to be printed, together with comments thereon, and a committee appointed to draw them up. A letter from a society at Leeds was read, requesting to correspond with the society, and stating the object of their association to be for the purpose of instructing their neighbours.

June 15. A letter was read from Mr. Stone, exhorting the society to persevere in their endeavours to restore the constitution to it's primitive purity, as established in 1688—endeavours that must ultimately prove successful, in spite of the contemptuous silence of the majority of the country. Upon this it was resolved by the society, that they will give their decided support to every measure brought forward tending to restore the rights of the people, as established in 1688.

Thanks were voted to the 112 members of the House of Commons, together with Mr. Wharton, for their exertions. Ten thousand copies of his speech were ordered to be printed, and distributed by the society.

About this time the witness ceased to be a delegate from his division to the meeting.

Sept. 25. He was present at the meeting of his division, No. 23, which met in a court near Bunhill-row.

It was stated there that a new Society was forming near Moorfields, and was increasing very fast; also that a new division of the Corresponding Society, who appeared very violent, was formed at the Grove in Bandy-legged-walk. A report was presented from the division in Walworth by one of it's members, the same who wrote the bill of the farce of the Guillotine. He was supposed to be employed by the National Convention in France. The address intended to be presented to the King having been reported to be pronounced treasonable by Mr. Vaughan, whose professional opinion was taken on it, another was ordered to be prepared October 7. At the next meeting a letter was read from a member, stating that he was going to Ireland, where he would open a correspondence between the societies there and the Corresponding Society.

The witness was also present at a meeting of the society held at Hackney, Mr. Hodgson president, when Messrs. Margarot and Gerald were elected delegates, to attend the British Convention to be holden at Edinburgh.

Nov. 5. Meeting of the division, No. 23. It was stated, that Messrs. Gerald and Margarot had set off for Scotland—and that the funds of the society were very low. A new society formed at Bristol. Messrs. St. Clair and M'Cleod, gone to Edinburgh to the Convention from the Constitutional Society. They were informed that associations were forming at Lambeth for the purpose of learning their exercise; and that similar ones were about to be established all over London.

Nov. 12. Division Meeting. Read a letter from a society at Norwich, approving of the Convention at Edinburgh, and requesting correspondence. It was stated that the funds of the society were very low, and a second subscription proposed, for the purpose of defraying the expences of their delegates at Edinburgh. There was a letter to their delegates, instructing them to visit the several societies in Scotland. It was said there was going to be a second general meeting in Edinburgh, but changed to Glasgow.

The witness was about this time re-elected delegate from his division to the general meeting of delegates from the several divisions of the Corresponding Society.

Jan.

Jan. 2, 1794. Attended the general meeting for the first time. Mr. Hardy was re-elected secretary. They had changed the place of meeting from Old Compton-street, to No. 3, New Compton-street. It was resolved, that no person cold be a delegate but those who have been at least three months a member of the division from which he was delegated. A hand-bill was adopted, approving of the conduct of the British Convention at Edinburgh, and passing a censure upon the magistrates of that city. Ten thousand copies of it were ordered to be printed and sent down immediately to be dispersed in Edinburgh. A letter was read, addressed from a meeting held at Sheffield, at which two thousand persons were present, recommending to the society to adopt spirited resolutions, and to support their delegates at Edinburgh.

January 9. It was resolved that a general meeting be held on the 20th instant, at the Globe Tavern in the Strand, to receive their late delegate to Edinburgh, Mr. Gerald. The meeting to be held at one o'clock in the forenoon; dinner at five. Stewards appointed, Messrs. Thelwall, Agar, Kyd, Harrison, Stiff, Franklow, Harris, St. Clair, Powell, Williams, Mitcham, Pearce, Moore, Moffatt, and Martin. An address to the public upon innovated rights by the magistrates, was read and adopted. It was also resolved to discuss the conduct of Mr. Secretary Dundas upon the above occasion.

The Witness was here called upon by Mr. Bower, the Counsel for the Crown, who was examining him to explain the reason of his ceasing to be a delegate for some time. He said he had been accused by one of the London Corresponding Society of being a *spy*; and was thereupon suspended. He was tried by a committee appointed for that purpose, and after hearing evidence against him, he was *honourably* acquitted. He was in consequence of his purgation re-elected.

Jan. 20. He was present at the meeting at the Globe Tavern in the Strand. Mr. Martin was president at the meeting before dinner. He went early, before many members had assembled, and he stayed till all was over. They assembled before dinner in a room upon the first floor. They were alarmed with the floor giving way. They removed to the ball room upon the second floor. The President, with a few others, were placed in the music gallery. An Address to the Nation was read and carried. At the dinner Mr. Thelwall was in the chair.

January 23. Meeting of Delegates. It was recommended that a hand-bill be stuck up at night in various quarters of the town, representing our grievances, and demanding that they be redressed. A subscription also was adopted in support of their delegates in Scotland. It was proposed to publish the

names

names of those who gave evidence against the delegates at Edinburgh; but this was opposed by Mr. Thelwall, as a measure which, by resentment, might lead to bloodshed and massacres. It was proposed to appoint two members, whose business it should be to be present at, and watch over the proceedings in the House of Commons.

January 30. A measure was brought forward for dividing the metropolis into divisions, and to open those. This he explained thus:—That houses were to be appointed in the various quarters of the town, to collect those in the different neighbourhoods round about them. It was resolved to advertise for subscriptions from persons, not being members, in support of the delegates in Edinburgh.

A permanent committee was appointed to consider of such measures as it should be necessary to pursue during the present posture of affairs—the same to be a secret committee. They were to have a discretionary power—and to report to the general committee of delegates at pleasure; but the general committee of delegates might dissolve them at pleasure. Messrs. Martin, Baxter, Williams, Thelwall and Moore, were unanimously elected upon this committee. The sub-committee of three, to consider of subscriptions for the delegates in Edinburgh—referred to the secret committee.

Feb. 6. The secret committee above-named stated, that they wished to decline the trust repoſed in them, as there was a danger to be apprehended of their being taken up. They proposed that a secret committee should be appointed, the names of whose members might not be disclosed. This was accordingly adopted.

Here this witness closed his evidence from his minutes. To the questions put to him by Mr. Bower, he stated himself to have been bred an ironmonger. He became a member of the London Corresponding Society by accident. Being at a public-house where one of the divisions met, he saw a printed paper, containing some resolutions; he warned the landlord against these societies, which had for their object to overturn the Constitution; and if he suffered them to continue to meet in his house, he would have his license taken from him. He afterwards introduced himself among them, for the purpose of observing them, and became a member.

On cross-examination by Mr. Erskine, he said he had been engaged in the commission line, for several years, for captains in the service of the East India Company. He had been first induced to become a member of the London Corresponding Society, from a conviction that traitorous designs against the Government were entertained by it's members, and that it was his

his duty, as a good ſubject, to aſſiſt in procuring the overthrow of their plans. Soon after his admiſſion into the ſociety, he became the object of ſuſpicion to ſome of the members of which it was compoſed, and was tried and honourably acquitted of ſuch a charge.

He was then aſked by Mr. Erſkine, whether he had communicated the memorandums he occaſionally made to any perſon whatever. To which he anſwered, that he had communicated to them one who, he was well aſſured, would convey the intelligence to Government. He was then aſked if ſuch perſon was a magiſtrate, and if he was not, who he was? To both of which queſtions

The Attorney General objected, ſtating as to the firſt, that it was obvious to all, that on the greateſt principles of public juſtice and utility, the Executive Government ought to meet with every degree of aſſiſtance in the diſcharge of the important functions entruſted to it, and conſequently every magiſtrate ought to be protected in the doing of theſe acts, which he imagined he was performing for the good of the community at large. Such was the indiſputable rule as to the caſe of the magiſtrate himſelf, and upon the aſſumption of it's truth, he would reſt the deciſion of the firſt object of enquiry before the Court; with reſpect to the ſecond object of inveſtigation he humbly ſubmitted to the Court, that if (as appeared from the oath of the witneſs) the communication was made with the deſign of being given to the magiſtrate, and that deſign was afterwards carried into effect, it came within the principle which he had laid down, and conſequently the ſame rule of conſtruction ought to be adopted. In ſupport of theſe abſtract poſitions, he aſſimilated the preſent caſe to that of an information filed in the Exchequer, according to the practice of which, any man might be deprived of the whole of his fortune without any poſſibility of his knowing through what channel the informer againſt him obtained his intelligence.

Mr. Erſkine on the other ſide contended, that it was not his wiſh in preſſing the right he had to put the preſent queſtion, to infringe upon the principles of abſtract juſtice, which had been laid on the other ſide. To preſerve thoſe principles from violation, to protect the Laws and Conſtitution of his country from violation, and in doing both, to ſave the life of his unfortunate client, were the great and important objects which he now had in view. In conformity to thoſe objects, he ſubmitted to the Court that he might put this queſtion, as it did not appear that this communication was made to a magiſtrate, nor with the certainty that it would ever

be

be communicated to one; though therefore he might be disposed to concede the first point, yet as it was premature to enter upon the discussion of it till he had obtained an answer to the last, he would at present content himself with insisting upon its propriety.

Mr. Gibbs, on the same side, stated the same distinction between a communication to a magistrate, and one to a third person who might inform that magistrate, contending, that the adoption of the latter principle might involve every transaction of social life, and bring every thought, word, and action, under the controul of Executive Government, contrary to the purposes for which it was introduced, and the limits which natural justice had set to it.

Lord Chief Justice Eyre, Mr. Baron Hotham, and Mr. Justice Grose, were of opinion that the evidence was admissible, as the communication was made with the express design of being given to the magistrate; and as they could not distinguish it from the case in the court of Exchequer, cited by the Attorney General, *contra* the Lord Chief Baron, and Mr. Justice Buller, who acceded to the propriety of the distinction of the prisoner's counsel.

The question was accordingly rejected, and the witness was at last ordered to attend to-morrow with his notes separate, which were then so intermixed with the memoranda of his private affairs, that they could not be examined by the counsel for the prisoner.

John Coates, late of the Birmingham Volunteers, acknowledged that he had been a servant or apprentice to P. Franklow, taylor, No. 1, China-row, Lambeth; that in the one pair of stairs his master and several others used in the evening to be taught the use of fire-arms; that he never heard of any circumstance which induced him to believe that those who met were conspired against the King; that so far as he understood, their principal aim was a Reform in Parliament, and that he had seen his master in his uniforms of blue coat and red collar, with white waistcoat and breeches.

James Walsh's evidence followed. He stated his having been at the Chalk Farm Meeting. He heard something mentioned respecting a Convention. The resolutions were read in his presence. One hundred thousand copies were ordered to be printed, and, if necessary, it was said, that the number might be increased to 200,000. He remembered having heard Thelwall speak on the occasion; but does not recollect any part of his speech. He was convinced, that there was no proposition, nor one word uttered, relative to arms. There was one man there from Ireland, which he knew by his brogue.

brogue. Cannot charge his memory with any further particulars.

Thomas Green, of Orange-ſtreet, Leiceſter-fields, was then ſworn. He declared, that he had dealt in knives and forks ever ſince he had been in buſineſs. Of three dozen of ſpring knives which he had received from Sheffield, he had ſold fourteen. He had ſometimes diſpoſed of ſingle knives. The priſoner, Hardy, had purchaſed ſome in packages, which conſiſted of ſix, ſometimes ſeven in the package. Green ſold one to Billington, and another to Groves; but ſaid that he had got moſt of thoſe taken by Hardy on account, returned to him when the priſoner was apprehended. The witneſs remembered having been one evening at ſupper in Compton-ſtreet, where he cut his food with a knife of this deſcription, which received the approbation of the company.

Mr. Erſkine croſs-examined Green.

The Witneſs anſwered, that he had dealt in thoſe knives for ſeveral years.

Mr. Erſkine. "Did you ever underſtand that theſe dreadful knives were for the purpoſe of throat-cutting?"

Green. "Never."

Mr. Erſkine. "Were they of a new or an old conſtruction? Were they conſidered as ſecret knives for terrible deſigns?"

Green. "They were neither new nor ſecret. They always lay in my window for common ſale, and I dealt in them for more than ſeven years."

Mr. Erſkine. "I ſuppoſe all cutlers ſell ſuch knives?"

Green. "I never knew any cutler without them."

Mr. Erſkine. "When Groves wiſhed to purchaſe a knife, did you deſire him to ſpeak in a low tone of voice, becauſe your wife was a damned Ariſtocrat, and might hear what he ſaid, from the parlour?"

Green. "I never ſaid my wife was a damned Ariſtocrat; nor did I ever adviſe Groves to ſpeak in a low tone of voice."

Mr. Erſkine. "Upon your oath, you did not?"

Green. "I ſwear poſitive, I did not call my wife a damned Ariſtocrat."

Attorney General. "No, Mr. Green, I dare ſay you could not be ſo unpolite to your wife."

Mr. Erſkine. "Groves has ſworn to it."

Edward Hodſon was next ſworn. He ſaid that he was a member of the London Correſponding Society about three months. Believed that there was no other object in view than a Parliamentary Reform. That the change which they wiſhed to effect was that in the Commons Houſe of Parliament; that it was no part of their plan to attack the King, but that

they entertained very different objects; that they designed no diminution of his power; that they never intended to displace or overthrow the Lords; and that the witness left the Society when he learnt that Hardy and Adams had been apprehended.

Mr. Gibbs. Had the Society ever any idea of taking upon themselves the legislation of the country?

Hodson. "No."

Mr. Gibbs. "Did you believe that from their conduct they ever meant to introduce the anarchy of France?"

Hodson. "Never."

George Ross, lives in Edinburgh, entered a member of the Society of the Friends of the People at the end of the year 1792, was a member of the British Convention, as delegate from his Society in 1793. At the end of November or beginning of December, attended several of their meetings. There were several delegates from England. Was not a member of the London Corresponding Society. Received amongst other letters in number about half a dozen, one from Mr. Stock in Edinburgh, the same with that which was then given into his hands. Sent several of the letters he received from Stock into the country. Sent one to Strathaven, one to Paisley, and some to other places. Took some of the minutes of the Convention, acting occasionally as secretary. Recollects the dispersion of the second Convention.

Cross Examination.

The object of this Society was a Reform in the House of Commons, and no further. There was, to his knowledge, no intention in the Association to attack the King's Majesty. The Convention did not consider themselves as the British Parliament, nor attempt to usurp the functions of the Magistracy. Made no laws to bind the people. Their only object was to gain a Reform by means of a petition. The Convention consisted of about two hundred persons, unprovided with arms, and yielded to the authority of the Magistrates when they came against them. The Convention consisted of all ranks, poor and rich, many of them reputable people, and chiefly of sober morals.

Mr. Garrow, in re-examination, asked him if he was present when the Convention declared they would continue to assemble until compelled to resist by superior force?

He does not know that such a resolution had passed, or at least does not recollect that he was present at the time of such a proposition, as he had not an opportunity of attending every hour in the day. Was present when a Convention Bill, &c. was to have been a signal for their assembling.

Speaking of the morality of the Members, he denied that Watt was a Member of the Convention, but acknowledged that Downie was.

The Lord President interrupted this kind of examination as irregular.

Mr. Erskine. What were they to do when assembled in consequence of such signal?

He said it was to forward their petition; but if their petition was rejected they would not desist.

Arthur M'Nell, of the Water of Leath, was a Delegate, in the Edinburgh Convention, and attended their Meetings sometimes. After the Convention was dispersed, there was a Committee of Union formed, some of them of the Committee of which Watt was a Member. There was a Committee of Ways and Means appointed afterwards, Mr. Holt, Mr. Burke, Mr. Richardson, Mr. Watt, Mr. Downie, and himself.

In that Committee, which was held in the month of April, the original object was to defray the expences of Mr. Skirving.

Watt read a plan, proposing to seize the Lord Justice Clerk and the rest of the Lords of Council and Sessions, and the Lord Provost of Edinburgh; to kindle a fire in the Excise Office of the New Town, and there was to be a party stationed.

Mr. Erskine wished to know the relevancy of this evidence.

The Attorney General rested the applicability upon letters of correspondence between Skirving and the prisoner Hardy, in which he endeavoured to shew that they understood, and were in concert with each other. The documents which he brought forward on this occasion, were exceedingly numerous and complicated. From their concert, union, and correspondence, he inferred that they were all parties in the same design. They were both preparing pikes, and preparing plans of resistance to Government, going on at the same time in both countries, and similar circumstances were deemed a conspiracy in the case of Lord Lovat.

Mr. Erskine said, that having scarcely the time allowed him which nature demanded for rest, he was hardly prepared to answer the Attorney General in all the references to which he had recourse; but as far as the prisoner was implicated in the proceedings of the Scotch Convention.

The President recommended to let the examination go on.

The examination being resumed, the witness said, that a party was to be stationed at Lochin Brach, and a party in another part of Edinburgh. The fire was to draw the military from the Castle. The two parties were to take them in front and rear. Different parties were to seize the different banking houses in Edinburgh, and commissioners were appointed to col-

lect the cash of the banks. When Watt read this first plan, were present Mr. Stock, himself, Watt, Downie, and another, being five out of the nine of which the Committee was composed. The prisoner objected to any thing that would tend to shed the blood of his country, in which Downie agreed with him.

On one of the last nights he attended, Watt read another plan in the presence of the same Committee, in form of a proclamation, prohibiting all farmers or dealers in corn, grain, or hay, to remove the same from their dwellings under pain of death: also that no gentleman should go above three miles from their respective habitations, under pain of death.

On the other side of the paper was an address to his Majesty, ordering him to dismiss his present Ministers, and put an end to the present war, or abide by the consequences.

The address was to be sent to his Majesty the morning after the attack. This plan he conceives was to strengthen the former one.

The witness told Watt those things did not belong to a Parliamentary Reform, and he would have nothing to do with him.

Watt called upon him, and asked him to take a walk to Orrock's, whom he asked to make some pikes, which Orrock sketched out upon a board or plate. Watt desired him to be busy and work, as he had 4000 to send to Perth, beside what he was to distribute about Edinburgh.

He met Stock at the Committee, who said he was going to London or Bristol; and that he would wait upon Mr. Hardy, the prisoner. Watt offered him a letter to the prisoner, to form a correspondence with Mr. Hardy and him in a safe manner.

Cross Examination.

Does not know whether Hardy desired such correspondence, or whether any took place. The object of his Society, consisting of twenty, was a Parliamentary Reform. Attended the Convention, and never heard such conversation as that he heard from Watt. As far as he could understand, they meant, by a petition, to obtain a Parliamentary Reform. The very night they had been dispersed, they were to have considered of a Petition to Parliament, or the King. Never saw any arms amongst them, nor was any propositions for an armament made. He spoke in general well of the moral characters of the Members, and gave the same description of their object as the former witness. He swore that he did not know that the Convention had agreed not to separate, except compelled by force,

force, and as to the other latter resolutions, which were considered as violent, he only knew of them by report.

Mr. Garrow was examining why he did not give information to the Magistrates of Watt's first plan, when he was interrupted by the Lord President, who said he was leading himself to make a confession of High Treason, and expressed his regret for suffering it to proceed so far.

William Middleton said he had on the 15th of May searched the house of Watt.

This evidence was objected to by the Court, as being subsequent to the time when Hardy was taken into custody.

Mr. Erskine then said, that the evidence on behalf of the Crown being now in a great measure closed, he must represent to their Lordships that Mr. Gibbs and himself, being the Counsel, appointed by the Court, for the prisoner, had been so continually occupied, as to allow them insufficient time even for that rest which nature required; but none at all for consulting upon the manner of conducting his defence. For himself, he was so much indisposed as to be unable to avail himself of the few hours granted on a former day, and he yet remained so ill that nothing but an imperious sense of duty could induce him to attend any longer. Notwithstanding this he was far from wishing to trespass on the time and convenience of the Court; but, as much time would be saved by suffering him to proceed according to the arrangement he wished to make, he hoped the Court would indulge him in some time to make the necessary preparations.

The Lord President observed that this was a very new and unprecedented situation. The Court felt for the difficulty of his situation, and he could assure him that, as far as depended on himself, the Lord Chief Baron, and the other Judges, any personal inconvenience to them should not deprive him of any necessary accommodation. But that was not all—the Jury were in the discharge of a more severe duty than any he had heard of, and they bore it in a manner that did them very great honor. Besides, it was a matter of notoriety that great part of this evidence had been for a long time in print, and it was not to be supposed that it had not been duly weighed and examined. There was one alternative which suggested itself, which may be of general accommodation, which was, that Mr. Erskine should go on to examine his witnesses to-morrow, for, though he did not wish to name Sunday expressly, he must inform him that the Court meant to sit very late on Saturday night.

Mr. Erskine said, that the Attorney General having opened up so copiously, and with so many comments, the evidence on behalf of the Crown, he could not venture a thing so unprecedented

dented in the history of our jurisprudence, as to suffer that evidence to go in such a state before the Jury, and the impressions which the cross-examination might have made to be worn off without entering fully upon the defence, and explaining the nature of the exculpatory evidence. He meant not to ask any time for preparing his address; but simply to make such arrangements in the evidence as would expedite the proceedings, and for this I require only a few hours.

Mr. Gibbs also remarked, that they could not hazard so novel a proceeding, as to enter upon the exculpatory evidence without addressing the Jury, lest any imputation may lie upon them, should the event be adverse to the prisoner.

The President said, that consideration was personal to themselves, but not essential to the administration of justice. The Court, he said, was afraid to hear Mr. Erskine's explanation of what he meant by a few hours, and was desirous to know what time he demanded.

Mr. Erskine declined the appearance of prescribing to the Court, and would be contented with what time they should think proper to afford him.

The Attorney General being asked what further witnesses he meant to produce? said there were only two, and those to points given in evidence before, which may not take above twenty minutes.

Mr. Erskine was asked whether he intended to call witnesses, or rest the defence on the evidence already adduced?

He answered, that he intended to call witnesses.

Judge Buller said, that he neither accepted their expedient, nor would mention precisely the delay he wished to obtain.

Mr. Erskine reminded them that the Attorney General had taken upwards of nine hours in opening the prosecution, and it would be but just to allow an equal, or if necessary a longer space of time for making the defence; but if he was suffered to make such arrangements and selection, instead of reading that part at full length of the evidence upon which he should have occasion to observe, he need not occupy half the time that was taken by the Attorney General. He therefore proposed an adjournment till twelve o'clock to-morrow.

The President then offered to adjourn till eleven o'clock.

Mr. Erskine begged earnestly for another hour, and asked the Jury, whether they would agree to accommodate him in that manner?

The Jury with one voice declared that they would agree to any thing which would accommodate them.

The Lord President said, if the Jury begged it for him, he would not refuse him.

The

The Court then, at half past One o'clock, adjourned till Twelve.

FIFTH DAY.

SATURDAY, NOVEMBER 1.

The Court met at twelve o'clock, purſuant to adjournment, and the uſual forms of opening being gone through,

George Lynam was called in, and finiſhed his croſs-examination. He produced his books and papers. The moſt material part of his evidence was, that he never heard the priſoner propoſe any other mode of reform than by a peaceable and conſtitutional application.

The Attorney General then produced two papers, which were found in the poſſeſſion of Thelwall, and in the hand writing of Martin, after Hardy was in cuſtody. They were brought forward to prove that they exiſted before the apprehenſion of the priſoner. They were the reſolutions of the Chalk Farm meeting, and were proved by Shaw, the meſſenger, to have been found in Thelwall's houſe ſince the apprehenſion of Mr. Hardy.

Mr. Gibbs thought this an informal mode of proceeding. He conceived that the papers could not in the leaſt attach to Hardy, ſince found ſubſequent to his being taken into cuſtody. After ſome converſation between the counſel for the crown and priſoner, the papers were admitted.

William Walker, of the Adelphi, ſwore to the hand writing of Martin.

Evan Evans ſwore that he had been confined for debt in the King's Bench priſon about two years; that he was liberated from thence on the 31ſt of July laſt. From Martin having been confined for debt in the ſame priſon, he became acquainted with him, and he there ſaw both the papers produced in Martin's room; it was in the beginning of April that he ſaw them, and before the meeting at Chalk Farm was held.—They were not then dated. Martin told him that he wrote theſe reſolutions for the Chalk Form meeting; and read them ſeveral times over in the room while the witneſs was preſent. He ſaid that he had put plenty of Cayenne in them, and if they would follow his advice, there would be a plenty of warm work before the month was out. His wife ſaw the papers, and

Mr.

Mr. Gay, Mr. Tourle, &c. some other persons heard the declarations of Martin, respecting his having prepared the resolutions.

Mr. Gibbs cross-examined this witness. He said, that he was formerly a grocer; that he had once a difference with Mr. Martin about the room which he occupied in the King's Bench prison, but that he never had used any expressions of resentment against Martin on that account.

Ann Evans said, she is the wife of the former witness, and used to attend him while he was confined in the King's Bench prison. (One of the papers was produced.) She had seen it in Mr. Martin's possession, at her husband's room in the prison. Remembers Martin reading that paper, and in the course of some conversation that passed, his remarking that it was not lawful to take up arms against the King.

Martin continued—that he had drawn up the resolutions to be submitted to the Chalk Farm meeting; that they were warm, for he had put plenty of cayenne into them, and if they took his advice there would be hot work.

The witness remembers Pearce brought some of the printed resolutions that had been entered into at Chalk Farm (which were not the same as those which were found in the possession of Martin.)

The Attorney-General remarked, that Pearce was the sub-secretary to the London Corresponding Society.

The witness proceeded—Pearce, at the time he brought them to Martin, in the King's Bench prison, said, that he had a number more, but that he had given the greater part of them away among the men at a coachmaker's in Long-acre; that Hardy had plenty of them, and if he wanted any more he would bring them to him.

Mr. Gibbs cross-examined this Lady. She said, that the resolutions were for the meeting of the society to have been held at a dancing-room in Store-street, Tottenham-court road. She had very frequently read the paper. (This was the meeting which was adjourned to Chalk Farm.)

Thomas Tourle said, that he was a prisoner in the King's Bench at the time Martin was confined for debt there, and he became acquainted with him. He never saw the papers produced, but heard Martin say, three or four days before the meeting at Chalk Farm, that he had prepared resolutions for that meeting, which were warm; and if they would follow his advice there would be hot work. He knew Mr. Gay, who was a prisoner in the King's Bench.

The Attorney-General then put in the paper, which was read. *See Reports of Secret Committees of Lords and Commons.*

John

John Edwards was ſworn, and a hand-bill produced to him. He was aſked if he had ever ſeen ſuch papers?—He ſaid that he had ſeen one of thoſe bills handed about at the diviſion meeting of the London Correſponding Society, No. 11, held at Mr. Scotney's, on Snow-hill.

This bill was put in and read. The following is a copy of it.

"The Inns tell us we are in danger of an invaſion from the French.

"The Outs tell us that we are in danger from the Heſſians and Hanoverians.

"In either caſe we ſhould arm ourſelves.—Get arms, and learn how to uſe them."

William Middleton, one of the ſheriffs officers of the county of Edinburgh, ſaid, that on the evening of the 15th of May laſt, he found in the houſe of Robert Orrock, ſmith, in Edinburgh, thirty-three pike-blades, finiſhed and unfiniſhed. They were only the blades. On the ſame day he found, in the houſe of Robert Watt, who was lately executed at Edinburgh, twelve pike or ſpear-heads, finiſhed. At a ſecond ſearch, in the ſame houſe, he found two other pike-heads, ſimilar to thoſe found on the firſt ſearch, two battle-axes, and one ſhaft-pole.

Here an objection was taken by Mr. Gibbs, who contended, that as theſe pikes were found after the priſoner was in cuſtody, the circumſtance could in no way apply to him, and was not therefore admiſſible evidence. His objection was over-ruled.

The examination of the witneſs proceeded.—He, in the firſt inſtance, went to ſearch Watt's houſe for the goods of a bankrupt, which were ſuſpected to have been ſecreted therein; in a cloſet or preſs in the dining-room, which was locked up, he found the pikes, on the firſt ſearch, and in the lower part of the houſe he found the reſt. Theſe were delivered by him into the care of Sheriff Clarke.

Joſeph Edwards was called up again; he begged to explain to the Court, in a more diſtinct way, a part of the evidence which he had given on Friday, and which might have been miſunderſtood by the Court and Jury, reſpecting the propoſed meeting in Green-arbour-lane, in conſequence of a letter from Sheffield; he wiſhed it to be underſtood that no meeting took place.

The Attorney General was proceeding to examine the witneſs on this point, when the Lord Preſident interrupted

 him,

him, and said, that it was a mere explanation of the witness of what had been given in evidence by him, arising, as it appeared to him, from a good motive, lest it should be misconstrued; and that therefore he did not think it right that the Council for the Crown should proceed to examine him, which would admit of a cross-examination, and thus there would be no end to the examination of the witnesses.

The Attorney General said, that many questions might have been put to the witness, if his evidence had differed from what it originally was, which, if the witness was permitted to amend that evidence, and he was precluded from the possibility of again examining him, could not be put.

The Lord President admitted that it was so, and that the witness might have opportunities of refreshing his memory and amending his evidence, by the accounts in the newspapers; for it had lately become a practice to print such reports of the proceedings of a court of justice, as the industry of the persons attending for that purpose could produce, and in some cases he thought this practice inconvenient.

William Lockhart, Sheriff-clerk-depute of Edinburgh, said, that he went with Middleton to the house of Watt, and was present at the finding of the pike-blades, the battle-axes, and one shaft-handle.

A box was produced, containing the pike-blades and battle-axes.

Mr. *James Clarke*, Sheriff-depute of the county of Edinburgh, said, that the box produced, together with its contents, was in his custody from the time the pikes were found until the trials at Edinburgh. One Scot, who was supposed to be implicated in the guilt of Watt, had absconded.

Lockhart was again called up, and said that he produced the box and its contents on the late trials at Edinburgh, and from that time, until the present, it has been in his possession, and no one has opened it.

The box was then opened, and it contained the weapons which the witness stated to have been found at Edinburgh. The pike-blades, as well as the battle-axes, screwed into the pole which was found; and an iron handle was produced, which was found with them, contrived to fit the screw of the battle-axe, so as to render it fit for use without the pole.

Mr.

Mr. *Gay* was proved to have been a member of the Society for Conſtitutional Information, but the minutes of that Society, which were read, and by which it appeared that he was propoſed by Mr. J. H. Tooke, and ſeconded by Mr. Bonney. Mr. Gay was not called.

The Attorney General informed the Court, at one o'clock, that he had cloſed the evidence on the part of the Crown.

Priſoner's Defence.

Mr. ERSKINE.

BEFORE I proceed to the diſcharge of that duty to which my ſituation this day calls me, I deſire to return my thanks to the Court, for having adjourned their proceedings to an hour which has afforded me an opportunity to take that neceſſary refreſhment which nature demanded, as well as to you, Gentlemen of the Jury, for the very polite manner in which you aſſented to an adjournment ſo eſſential to my accommodation, and to my being at all qualified for the taſk in which I am now to engage. Before I proceed to the caſe, as it regards the law and the evidence, I wiſh to follow the liberal example that has been ſet by the Attorney General, in his opening ſpeech, in putting aſide every thing collateral to the queſtion. But firſt, both in the name of the Priſoner for whom I ſtand, and for myſelf, I deſire to ſubſcribe to all that eulogium pronounced by the Attorney General on the Conſtitution of this Country, as handed down to us by our anceſtors, the reſult of their ſuperior wiſdom and virtue, and entitled to the eſteem and veneration of all poſterity. But having premiſed this, the genuine expreſſion of feelings, I truſt not leſs ſincere than thoſe which dictated the panegyric of the Attorney General, "What, I will aſk, entitles the Conſtitution to this eulogium? What renders it the object of our love and reverence? I will not now ſpeak of the right which it affords to its ſubjects, of making their own laws, but of the equal protection afforded to all, and the ſecurity provided for the impartial adminiſtration of juſtice." The Attorney General ſeemed to lay great ſtreſs on the anarchy and confuſion of France, on which he deſcanted at length. Into that ſubject I will not at preſent enter; I neither will enquire into the cauſes by which they were firſt produced, nor the circumſtances from which they have proceeded to ſuch an extent. But what is it that the French have chiefly

chiefly to deplore? They are at present under the dominion of a barbarous necessity, in consequence of which, no man's life, liberty, or property, is secure, or at his own disposal for a moment. The first instant that a charge of incivism, federalism, or moderantism, is brought against him, the sentence of the Revolutionary Tribunal follows—quick as a thunderbolt pursues the flash, and he is doomed to behold his friends and family no more. Such is the comparative state of England and France; and what is the inference we ought to draw with respect to the present case? If the prosecution be indeed intended to avert from this country the horrors of that anarchy, under which France at present labours; if it be intended to secure the continuance of those blessings which it enjoys under its admirable Constitution, let not the Prisoner suffer from the execution of barbarous laws barbarously enforced, or from the well-meaning enthusiasm of those, who, sincerely attached to the Constitution, are desirous to ensure its preservation at any price. For in former instances in the history of this country, where we have to lament the sacrifice of innocent persons under legal pretexts, I am apt to think that we ought rather to condemn the mistaken zeal than the barbarous ferocity of the age. It is necessary then that you, Gentlemen of the Jury, should guard against this source of delusion and injustice; it is necessary that in the decision which you are called to give, you should stand on the strict and unequivocal letter of the Law. It would not be enough that the Prisoner should appear to you to have been rash, foolish, or even wicked—the last of which it will be impossible to support by any colour of evidence—for I trust I shall be able to vindicate his conduct, which, in the present instance, is of little consequence. It must be proved to your satisfaction, that he has offended against that statute under which he is indicted. He holds his life from the Law, and by it He demands to be tried. This fair trial I ask; first from the Court—I ask it more emphatically from the Jury—but, lastly, and chiefly, I implore it of him in whose hands are all the issues of life, whose just and merciful eye expands itself over all the transactions of mankind, without whom not a sparrow falleth to the ground, at whose command nations rise and fall, and are regenerated. I implore it of God himself, that he will fill your minds with the spirit of justice and of truth, that you may be able to find your way through the labyrinth of matter laid before you; a labyrinth in which no man's life was ever before involved, in the whole history of British trials, nor indeed the universal annals of human justice or injustice.

Mr. Erskine then proceeded to the indictment: the first charge of the Indictment was, 'that the prisoners maliciously, 'traitorously, and with force of arms, did amongst themselves 'and other false Traitors, to the Jurors unknown, conspire, 'compass, and imagine to excite insurrection, rebellion, and 'war against the King, and to subvert the Legislature, Rule 'and Government of the kingdom, and to depose the King

'from

'from the Royal State, Title, Power, and Government, of the 'Kingdom, and to bring and put our said Lord the King to 'death.' "Gentlemen of the Jury, said Mr. Erskine, you have been extremely good in taking down the evidence; allow me now to request you to attend to the form and substance of the charge. The whole Treason lies in the last member of the charge, viz. 'And to bring and put our said Lord the King to 'death.' The Indictment then goes on to charge the overt-acts —'And to fulfil, perfect, and bring to effect their most evil and 'wicked Treason, and treasonable compassing and imaginations 'aforesaid, viz. to bring and put the King to death—They 'met, conspired, consulted, and agreed among themselves and 'other Traitors to the Jurors unknown, to cause and procure a 'Convention and Meeting of divers subjects to be assembled 'within the kingdom, with intent and in order that the persons 'so assembled, and at such Convention and Meeting, should trai-'torously, without and in defiance of the authority, and against 'the will of Parliament, subvert and alter, and cause to be sub-'verted and altered, the Legislature, Rule and Government of 'the Country, and depose, and cause to be deposed, our Lord 'the King, from his Royal State, Title, Power, and Govern-'ment thereof.' This is the overt-act—That the prisoner conspired the death of the King, and that in pursuance of this intention, he did all the acts charged in the Indictment, provided arms, and concerted the plan of a Convention. And here two things occur for consideration, which are absolutely necessary in order to establish the guilt of the Prisoner under this charge. First, it is necessary to prove, that he actually did the things which are charged in the Indictment. Secondly, That he did them with the intention, and in pursuance of the object of compassing the King's death. Was this Convention, by which he proposed to put down the King, to supersede the functions of the Legislature, and usurp to itself all the authority of the State? A man cannot be guilty of the overt-act, without having first conceived the intention. It is the intention which at the time passes through the mind, that alone attaches guilt to the act. And if you are satisfied with respect to the guilty intention, you are then to consider whether the overt-act is of a nature which amounts to the description of that charged in the indictment? And here I would earnestly implore the attention of the Court, and of the Attorney General, to what the Law is. It is not my intention on the present occasion, to offer any thing of my own. It is only my wish to make you masters of the authorities. Nor is it necessary that I should bring forward my own authority for the purpose of defending the Prisoner, and answering the arguments of my Hon. Friend the Attorney General—for my Hon. Friend I have often called him, and still will continue to call him. He has not had recourse to barbarous precedents, nor bloody murders committed under pretext of Law; he has not brought forward the excesses of a rude and sanguinary age, or the legal so-

phistry

phistry of corrupt and profligate Judges. He has rested on grave and venerable authorities, though mistaken in my opinion with respect to the deductions which he has drawn from them. That mistake I ascribe neither to the defect of his understanding or his heart; I have too high an esteem for the enlargement of the one, and the integrity of the other. On those very authorities which he has brought forward, I also mean to rest; and I am persuaded that if there is any difference among them it will be found only to arise from a mere tripping of expression. And first, I must advert to the constructive Treason of deposing the King. And here I must remark, that I stand in a fearful and delicate situation; it is necessary therefore, that I should occupy a large ground, as not only the life of the Prisoner at the Bar is at stake, but the lives of many, who are behind, involved in the same question, and dependent upon the same issue.

As trial was nothing more than the application of the facts disclosed in evidence, to a rule of human action or conduct, the breach or violation of which constitutes the charge, the preliminary discussion must be (Mr. Erskine continued) what was the law, and what the breach of it, which the prisoner was called upon to answer. To this, as it became him, upon so solemn and awful an occasion, he must resort to the history of the country, the records of the law, and the authoritative writings of the most learned men upon the subject of High Treason. In doing this, it was not his desire, he said, to press upon that court any theories, or opinions of his own, but to extract, by legal reasoning, from those unerring sources—the law of the land upon the subject. As to the crime of High Treason at common law, before the statute of the 25th Edward III. upon which the indictment, and every indictment for High Treason, must now be framed, little was necessary to be said concerning it; he should therefore dismiss the consideration of the common law on the subject of Treason, with the observation of that great, excellent, and most learned person, whose memory would last as long as law or constitution remained to Englishmen, Lord Chief Justice Hale, who says, "That at common law there was a great latitude used in raising offences to the crime and punishment of Treason, by way of interpretation and arbitrary construction, which brought in great uncertainty and confusion. Thus accroaching (*i. e.* encroaching) on royal powers, was an usual charge of Treason anciently, though a very uncertain charge, so that no man could tell what it was, or what defence to make to it." He then proceeds to state various instances of vexation and cruelty, and concludes with this observation, "By these and the like instances that might be given, it appears how arbitrary and uncertain the law of Treason was before the statute of the 25th of Edward III. whereby it came to pass, that almost every offence that was, or seemed to be, a breach of the faith, and allegiance due to the King, was by construction, and consequence, and interpretation, raised into the offence of High Treason."

Treason." To remedy these grievous abuses, by which every faction in its turn sacrificed its enemies by arbitrary executions, founded upon constructive Treason, making ancient England like modern France, the wise and venerable statute of King Edward III. was made, whose excellent and benevolent object was to make Treason certain. Lord Coke called the parliament who passed this statute, *Parliamentum Benedictum*, and the like honour was given to it by the different statutes which, from time to time, brought back Treason to its standard, "all agreeing in magnifying and extolling this blessed statute." As no Judge ever did or could deny that this statute was enacted to give, by its letter, all certainty and precision to the crime of Treason, and to prevent the arbitrary constructions by Judges, which had disfigured and dishonoured the ancient law, and brought, to use Hale's language, "insecurity upon both King and People," it might be affirmed that this celebrated statute would little have deserved the panegyrics bestowed upon it, if it had not, in its enacting letter, which professed to remove doubts, and to ascertain the law with precision, made use of expressions well known and ascertained; and it would be seen how cautiously it did so. The two great objects of the statute were to guard, 1st. The natural life of the King—and, 2d, His executive power and authority. So important was it considered to save the kingdom from the confusion into which it must be thrown, by cutting off the life of the first Magistrate, that it made the *intention* to kill the King equivalent to the *act* of killing him; guarding the pre-eminent life of the Sovereign by sanctions superior to the ordinary laws, which guarded even the State itself; and therefore, though a compassing the death of the King, Queen, or Prince, was made High Treason, without the accomplishing of the purpose, yet a compassing to murder the Chancellor and Judges, whose lives, as the King's Representatives, were also guarded by the statute, was not made Treason. To compass their deaths, when sitting in judgment, was not made equivalent to the act of killing them; no, not even the *compassing* to subvert the King's political authority by war and rebellion. The statute not having substituted the *intention* for the *act* in that branch, leaving the security of the King's natural person and life, and that of his Queen and Prince, the only exceptions to the ordinary rules of judgment and law. In order to prevent arbitrary constructions of this severe but arbitrary law, and to guard the subject from the uncertainty of judicial construction of Treason, it cautiously sought for an expression well known and understood in the ancient law, viz. *compassing the death*—the words are, "when a man doth compass or imagine the death of our Lord the King." Mr. Erskine said, as he wished cautiously in this part of his address to avoid every observation or opinion of his own, he would resort to the explanation of this expression by the celebrated Judge Forster—"The ancient writers (says Forster) in treating of felonious homicide, considered the felonious intention, manifested by plain fact, in the

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same light, in point of guilt, as homicide itself. The rule was, *voluntas reputatur pro facto*, and while this rule prevailed, the nature of the offence was expressed by the term *compassing the death*. This rule has been long laid aside as too rigorous in the case of common persons; but in the case of the King, Queen, and Prince, the statute of treason has, with great propriety, retained in its full extent and rigour, and in describing the offence has likewise retained the ancient mode of expression. When a man doth compass or imagine the death of our Lord the King, &c. and therefore be upon sufficient proof provablement attainted of open deed by people of his condition, the words of the statute descriptive of the offence, must therefore be strictly pursued in every indictment for this species of Treason; it must charge that the Defendant did traitorously compass and imagine the King's death, and then go on and charge the several acts made use of by the Prisoner to effectuate his traiterous purpose, for the compassing the King's death is the Treason, and the overt acts as the means made use of to effectuate the intentions and imaginations of the heart, and, therefore, in the case of the Regicides, the indictment charged that they did traiterously compass and imagine the death of the King, and the cutting off the head is the overt-act, and the person who was supposed to have given the mortal stroke was convicted on the same indictment." This instance of the Regicides, selected by Forster to illustrate that the traitorous purpose was the crime, was very striking and remarkable. Although the King was actually put to death, the homicide was not charged, but the traitorous purpose; and then the Chief Baron, in his speech to the Grand Jury, said, "These persons are to be proceeded with according to the laws of the land, and I shall speak nothing to you but what are the words of the law. By the statute of Edw. III. it is made High Treason to compass and imagine the death of the KING. In no case else, imagination or compassing without an actual effect, is punishable by law." He then speaks of the sacred life of the KING, and speaking of the Treason says, "The Treason consists in the wicked imagination, which is not apparent. But when this poison swells out of the heart and breaks forth into action, in that case it is High Treason. Then, what is an overt-act of an imagination or compassing the KING's death? Truly it is any thing which shews what the imagination of the heart is." After shewing that the noble and sublime spirit of humanity, which pervades and supports the whole system of our jurisprudence, ever awake to interfere in protection of our imperfect natures, would not suffer the ancient law, with respect to private persons, to remain, he said, that for ages past the death of the private man had been held necessary to the completion of the felony; but, as Forster truly observed in the passage he had just read, this rule, too rigorous in the case of the subject, the statute of Treason *retained* in the case of the KING, and retained also the very expression. The Sovereign's life was made to remain an exception, and the *voluntas*

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pro facto, the will for the deed, remained the rule; and, therefore, said Forster, the statute meaning to retain the law, which was before general, retained the expression. The statute did not, in its first branch, make a new law in its principle or expression, but retained the old one applicable to subjects. It followed inevitably from thence, that within the letter and meaning of the statute nothing could be a compassing of the death of the KING, that would not, in ancient times, have been felony in the case of a subject. The opinion of Judge Forster was confirmed by that of Lord Coke, by that great prerogative lawyer, whose infamous prostitution in the case of Lord Strafford would tarnish his name to all posterity; but still his opinions as a critic and a commentator, made him a proper authority for him to use. Lord Coke, in his Commentary upon the words of the statute, which he did with that precision and technical nicety which, though not calculated to please the ear, were so valuable in a book of science, when he comes to the words "doth compass," says, "Let us see first what the compassing of the death of a subject was before the making of this statute, when *voluntas reputabatur pro facto*"—thus falling in with the opinion of Judge Forster. He then stated Lord Coke's definition of the expression of common law, which went to shew that the compassing the death of the KING, not only by the plain common sense of the expression, but by looking back to the common law, from whence, for centuries back, the expression was admitted to have been borrowed; it was clear that a probable speculative consequence must not be confounded with an intention, since the overt-act must be laid directly to shew the traitorous purpose of the heart. Notwithstanding the benevolent precision of this statute, it was lamentable to see the departures from it which mark and disfigure our history; but at the same time, it should be a theme of consolation to Englishmen to reflect, that as often as in arbitrary and wicked times, it was invaded by Parliaments and Judges, the justice of better Judges and better Parliaments brought the law back to the ancient standard; these invading statutes and judgments, and their appeals, were indeed decisive of the true construction of the statute. The statute of the 25th Edw. III. had expressly directed that nothing should be declared to be Treasons but cases within its enacting letter; yet Lord HALE says, that "things were so carried by parties and factions in the succeeding reign of Richard II. that the statute was but little observed. But as this or that party got the better, so the crime of High Treason was in a manner arbitrarily imposed or adjudged, which by various vicissitudes and revolutions mischiefed all parties first and last, and left a great unsettledness and unquietness in the minds of the people, and was one of the occasions of the unhappiness of the King."—Mr. Erskine shewed, in order, the various statutes which had altered and impaired the statute of Edw. III. The statute of the 21st of Richard II. which Lord Hale says "was a snare for the people, insomuch that the statute of the 1st Henry

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IV. which repealed it, recited that no man knew how he ought to behave himself, to do, speak, or say, for doubt of such pains of Treason, and therefore wholly to remove the prejudice which might come to the King's subjects, the statute of 1st Hen. IV. chap. x. was made, which brought back treason to the standard of the 25th of Edw. III." Now what did this statute of Rich. II. which produced so much mischief? It only went beyond the statute of Edw. III. by the loose construction of compassing to depose the King, and raising people, and riding to make war. Levying force to imprison or depose the King, was already and properly Treason; but this statute of Rich. II. enlarged only the crime of compassing; making it extend to a compassing to imprison or depose, and making that equal to an actual levying of war; and this extension was reprobated, stigmatized, and repealed by the statute of 1st. of Hen. IV. and "so little effect," says Justice Blackstone, "have overt-violent laws to prevent any crime, that within two years after this new law of treason respecting imprisonment and deposing, this very Prince was both deposed and murdered." Mr. Erskine then went on to the next departure of the statute in the first and 2d of Philip and Mary, which made a compassing to levy war, if manifested by printing, writing, or overt-act, High Treason. This shewed that a compassing to levy war was not considered to have been treason within the Act of Edward III. which required an actual levying of war. If compassing to levy war had been considered as compassing of the King's death, it would have been unnecessary to declare it treason by this Act. The first branch of the statute of Edward III. made it High Treason to compass or imagine the King's death; but the second branch of the statute required an actual levying of war necessary to constitute treason. The law made the natural life of the King so much more sacred than his executive authority, that to imagine his death was treason, but there must be a positive attack made upon his executive authority by the levying of war, to constitute the other. What was it that was meant to be restored by the statute of the 1st of Mary? The letter of the 25th of Edward III. or the judicial construction of it? Clearly it was the letter that was to be restored. He wished nothing to be taken, he said, from any unauthorised opinion of his own; but he wished to bottom himself upon the authority of the great Judges whose opinions had been pressed erroneously into the service against them. He said erroneously, because it would be seen that their declarations were reconcileable. The writings of those great Judges were thickly sown with warnings to Judges to avoid constructive treason. Lord Coke says, that "the statute of the 1st of Mary speaks a strong language against constructive treasons, when it says, it was declared by the whole Parliament, that laws justly made for the preservation of the whole commonwealth, without extreme punishment, are more often obeyed and kept, than laws and statutes made with great and extreme punishments, and in special laws and

statutes

ſtatutes ſo made, whereby not only the ignorant and rude unlearned people, but alſo learned and expert men minding honeſty, are oftentimes ſnapped and ſnared." The Lord Juſtice of Scotland, ſaid Mr. ERSKINE, differed from this ſtatute in what he ſaid at Perth, "that very honeſt men were guilty of Treaſon without knowing it." In this ſtatute of MARY, Lord COKE goes on to ſay, that two things are to be obſerved, 1. That the word expreſſed in the ſtatute of MARY excludes all implications or inferences whatſoever. 2. That no former attainder, judgment, &c. &c. other than ſuch as are ſpecified and expreſſed in the ſtatute of EDWARD III. are to be followed or drawn into example, for the words plain and direct. And further, on commenting on the word *proveablement* he ſays, "In this branch, it is to be obſerved, the word proveablement, *proveably*, i. e. upon direct and manifeſt proof, not upon conjectural preſumptions, or inferences, or ſtrains of wit, but upon good and ſufficient proof; and herein the adverb *proveably* hath a great force, and ſignifieth a *direct plain proof*, which word the Lords and Commons in Parliament did uſe, for that the offence of Treaſon was ſo heinous, and ſo heavily and ſeverely puniſhed, as none other the like; and therefore the offender muſt be *proveably* attainted, which words are as forcible as upon direct and manifeſt proof. Note, the word is not *probably*, for the *commune argumentum* (a common argument) might have ſerved, but the word is proveably be attainted." Nothing could be ſo curiouſly and even tautologouſly laboured, as this commentary of Lord COKE upon this ſingle word in the ſtatute; which manifeſtly ſhews that ſo far from its being the ſpirit and principle of the law of England, to adopt rules of conſtruction, and proof unuſual in trials for other crimes, that on the contrary, the legiſlature did not even leave it to the Judges to apply the ordinary rules of legal proof to trials under it, but admoniſhed them to do juſtice in that reſpect in the very body of the ſtatute. Lord HALE's words were equally ſtriking. He brings forward inſtances to ſhew "how neceſſary it was that there ſhould be ſome known, fixed, ſettled, boundary for this great crime of treaſon, and of what great importance the ſtatute of the 25th of EDWARD III. was, in order to that end; how dangerous it was to depart from the letter of that ſtatute, and to multiply and enhance crimes into treaſon by ambiguous and general words, ſuch as accroaching royal power, ſubverting fundamental laws, and the like; how dangerous it was by conſtruction and analogy to make treaſons, when the letter of the law has not done it, for ſuch a method admits of no limits or bounds, but runs as far and as wide as the wit and invention of accuſers, and the deteſtation of perſons accuſed, will carry men." Surely the admonition of this ſupereminent Judge ought to ſink deep into the heart of every Judge, and of every Jury who were called to adminiſter juſtice, under an accuſation upon this ſtatute. The great man ſeems to have had a bird's eye of the preſent trial; he ſeems to have anticipated

cipated the horrors of ſuch a confuſed, heterogeneous maſs of papers as were now brought before a jury; where no ſpecific overt-act directly expreſſive of an intention to compaſs the King's death was laid, no preciſe point of a man's life ſpecified—but where four days had been neceſſary to the mere accumulation of the maſs—where a ſpeech of nine hours was required to explain the charge—and a whole life of treaſons was to be collected from inferences, ſpeculations, and tendencies, that no man could touch with his underſtanding, nor treaſure in his memory. The words of Mr. Juſtice Forſter in his diſcourſe upon treaſon were no leſs emphatical. After commenting upon writings and words when uſed as evidence of treaſon, he ſays, "I have conſidered the queſtion of words and writings ſuppoſed to be treaſon the more largely, not only becauſe of the diverſity of opinions concerning it, but likewiſe for the great importance of the point, and the extreme danger of multiplying treaſons upon ſlight occaſions. The next and the great queſtion to be conſidered was, how the doctrine of theſe great lawyers who had thus inveighed againſt conſtructive treaſons were reconcileable with the poſitions to be found in their works, which had been cited and relied on by the Attorney General. In order to diſcuſs the matter with preciſion, they muſt advert to the language of the paſſages cited, in doing which they would find that none of theſe great authors had ſaid, that compaſſing to change the laws by force, was treaſon in the abſtract, or that even compaſſing to levy war againſt the King was treaſon in the abſtract; or that compaſſing to impriſon the King, until he yielded to particular demands, was treaſon in the abſtract; but only that any of theſe acts might be laid as overt-acts of compaſſing the King's death; that they were acts that might be legally ſubmitted to the jury, as the means made uſe of to effectuate the purpoſe charged in the indictment, viz. the compaſſing the death of the King, and might therefore be legally charged upon the record, as overt-acts of that treaſon: the ſtatute required that the compaſſing the death, which was the crime, ſhould be manifeſted by overt-act; the overt-act, therefore, muſt be laid in the indictment. What might be an overt-act was matter of law for the Judges, but whether, when ſo laid, it was ſufficient to eſtabliſh the traitorous purpoſe, was matter of fact for the Jury. This diſtinction was not peculiar to treaſon, but pervaded the whole law of England. What facts were evidence from whence any matter in iſſue might be legitimately inferred, was matter of law; but whether any given facts, which were legally relevant to prove the matter which they were adduced to eſtabliſh, were ſufficient in any particular inſtance, depended upon the concluſion which the Jury ſhould draw from facts ſimply, or from the whole evidence upon the trial of the iſſue. Mr. Erſkine illuſtrated this by a recent caſe relative to Bills of Exchange, which came before the Houſe of Lords. When the the queſtion was agitated in the ſhape of a demurrer to evidence, it was decided by the Houſe of Lords, that the concluſion to be

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drawn from relevant and admissible evidence, to prove any matter in issue criminal or civil, could not, by demurrer to evidence, or by any other process, be withdrawn from a Jury to the Judges; the province of the Judges being to judge of the law, and consequently of the irrelevancy and inadmissibility of evidence as a branch of law, but that it belonged to the Jury alone in each particular case to draw the particular conclusions from relevant and admissible evidence. This distinction would at once explain all the seeming contradiction in the books concerning overt-acts of treason; particularly in the treason of compassing the King's death. The charge of compassing being a charge of intention, which, without a manifestation by conduct, no human tribunal could try; the statute required that the intention to cut off the Sovereign should be manifested by overt-acts; and as a prisoner charged with an intention could have no means of knowing how to defend himself, when an intention was the crime, without notice of the facts from whence such intention was to be imputed to him, it was the practice to state, upon the face of the indictment, the overt-act, as the means taken to effectuate his purpose; and by the statute 7th William III. no evidence shall be admitted or given of any overt-act, that was not expresly laid in the indictment. In order to confirm these doctrines, he would make his appeal to every record and authority in the law of England. In the first place, so far were the overt-acts of compassing to depose, or compassing to imprison, or compassing to change the laws by force or intimidation, or any other compassing short of the direct compassing the death of the King, capable of being made High Treason, that the indictment must charge that the Prisoner did traitorously compass the death of the King; and the overt-act can be put upon the record in no other way than as the means by which the existence of that traitorous purpose was to be put for the consideration of the Jury. He quoted Lord Coke in his 3d Institute, 11 and 12, to prove that this was his opinion. The contemplation, purpose, and contrivance, must be found to exist, without which, says Lord Coke, there can be no compassing. Lord Coke's doctrine was so implicitly followed by Lords Hale and Forster, as far as related to this part of the subject, that it was almost unnecessary to advert to their works, but as he wished to stand upon authority in every stage, he would refer to them. He then quoted from Lord Hale's P. C. page 107, stating that the overt-act must be laid down so far as to enable the imagining to be brought to trial by human judicatures. As long as the English Constitution preserved to a Jury the legal cognizance of facts, we had the best security for the preservation of the subject. There was a misconception in this particular, that produced the innumerable controversies upon the Trial of Libels, and which were at last happily quieted by the late Act of Parliament. But in the case of a libel it must be allowed there was some plausibility in the judicial usurpation, whereas applied to treason there was none. In the case of treason, the *purpose of the mind* was the crime charged; the overt-act was only alledged

ed to be an act done in purſuance of that intention; which made it ſhocking alike to common ſenſe and to conſcience to ſay, that becauſe the Jury gave credit to the overt-act as a matter of hiſtory, that they muſt therefore ſtand the traitorous purpoſe. He then enumerated Lord Hale's inſtances, which had been held to be ſufficient overt-acts of compaſſing. "When men conſpire the death of the King, and thereupon provide weapons, &c. or ſend letters for the execution thereof, this is an overt-act within the ſtatute. If men conſpire to impriſon the King by force and a ſtrong hand, until he has yielded to certain demands, and for that purpoſe gather company, or write letters, that is an overt-act to prove the compaſſing the King's death, as it was held in Lord Cobham's caſe by all the Judges." In this ſentence Lord Hale did not depart from that preciſion which ſo eminently diſtinguiſhes all his writings; he did not ſay that if men conſpire to impriſon the King, that was High Treaſon; no, nor even an overt-act of High Treaſon; but to prevent the poſſibility of confounding the Treaſon with matter which might be legally charged as relevant, he ſaid, this is an overt-act *to prove* the compaſſing the KING's death, and as if by this mode of expreſſion he had not done enough to keep the ideas aſunder, and from abundant regard for the rights and liberties of the ſubject, he immediately adds, "But then there muſt be an overt-act to prove that conſpiracy, and then that overt-act to prove ſuch deſign is an overt-act to prove the compaſſing of the death of the King." The language of the ſentence laboured on the ear from the exceſſive caution of the writer; afraid that his readers ſhould jump too faſt to the concluſion, upon a ſubject of ſuch awful moment, he pulls him back after he has read that a conſpiracy to impriſon the King is an overt-act, to prove the compaſſing his death, and ſays to him, "But recollect, that there muſt be an overt-act to prove in the firſt place the conſpiracy to impriſon the King, and even then that propoſition, that intention to impriſon ſo manifeſted by the overt-act, is but in its turn an overt-act to prove the compaſſing or intention to deſtroy the King." He ſays too, the detention muſt be forcible, and he proceeds to reprobate a conſtructive compulſion upon the King independently of actual reſtraint. Lord Hale goes on to diſtinguiſh between conſtructive levyings of war againſt the King's Executive Authority from conſpiracies to levy war upon his perſon; and declares that though it might be *prima facie* good upon an indictment when barely laid as a levying war againſt the King, yet it would fail when it appeared in evidence to be no more than a levying war by conſtruction and interpretation. The mind of the Priſoner, which it was the object of the trial to lay open, would be ſhut and concealed from the Jury, whenever the death of the Sovereign was ſought by circuitous means, inſtead of a direct and murderous machination. It was curious to compare Lord Coke's ſpeech to the Jury as Attorney General againſt Lord Eſſex with the writings which he had left as monuments to poſterity of the

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law upon this momentous ſubject. But it was loſs of time to conſider the arguments of an Attorney General, who could ſo diſhonour himſelf, and degrade his profeſſion, as Lord Coke, to his eternal infamy, did in the caſe of Sir Walter Raleigh. His Hon. and Learned Friend, the preſent Attorney General, would, by his candid proceeding in the opening of this cauſe, go down to poſterity with a purer character, though he might not have written ſo many books as this great, baſe, and degraded man. It was fit, nevertheleſs, for the preſent argument to obſerve, that in the caſe of Lord Eſſex, Lord Coke expreſsly treated High Treaſon as a crime of intention. What was the rule with regard to penal ſtatutes of every deſcription? The rule notoriouſly was to adhere rigidly to the letter. Judge Forſter ſays it may be laid down as a general rule that indictments grounded on penal ſtatutes, eſpecially the moſt penal, muſt purſue the ſtatute, ſo as to bring the party preciſely within it. It was needleſs to ſay that if the benignity of the law required this preciſion in the indictment, the proof muſt be correſpondingly preciſe; for otherwiſe the ſubject would derive no benefit from the ſtrictneſs of the indictment. If a defendant could be convicted by evidence amounting to a breach of the real or ſuppoſed ſpirit of the ſtatute only, then the ſtrictneſs of the indictment would be no protection to the Priſoner, but would be a direct violation of the firſt principles of criminal and civil juſtice. He illuſtrated this by referring to many different caſes. In Mary Mitchell's caſe, Judge Forſter ſays, "Although a caſe is brought within the *reaſon* of a penal ſtatute, and within the miſchief to be prevented, yet if it does not come within the unequivocal letter, the benignity of the law interferes." He referred alſo to Gibbon's caſe, and thoſe of John Howard and John Bell, for illuſtrations of the ſame doctrine. Having maintained the argument by the letter of the ſtatute itſelf, and the authoritative Writers whoſe works were for ever referred to by the officers of the Crown in ſtate proſecutions, the next ſtage in the argument was to examine whether theſe authorities had been acted upon. He meant to maintain that, in every caſe which was conſidered as a precedent, the ſame conſtruction had been put upon an overt-act, and that no overt-acts had been regarded but ſuch as went directly, and not conſtructively, as an attack on the perſon of the KING. The firſt caſes that deſerved attention, after England had her preſent Conſtitution, were the trials on the aſſaſſination plot againſt King William. The trials of Sir J. Frend, Sir W. Parkyns, and others, before Lord Chief Juſtice Holt; nothing in theſe trials went againſt the principles which he had been endeavouring to eſtabliſh. The charges againſt Sir J. Frend were unequivocal; the overt-acts relied on were, ſending Mr. Charnock into France to King James, to deſire him to perſuade the French King, to ſend forces over to Britain, to levy war and depoſe King William. The next overt-act was—preparing men to be levied, to form a corps to aſſiſt in the reſtoration of the Pretender, and the expulſion of King William,

liam, of which Sir J. Freud was to be Colonel. In this case the proof was either to be wholly discredited, or it went directly home to a legal overt-act of the compassing the death of the King upon the principles which he had laid down. It was not a speculative tendency to his death, but was a consequence so direct and immediate, that he who pursued the act, might be justly convicted of the intention, for if the plot had succeeded, and James had been restored, King William must have been necessarily attainted and executed by the forms of English law. No man who engaged in that plot could be reasonably supposed not to have foreseen, and to have intended the King's death. Lord Holts summing up did not go beyond this admitted principle; "The Treason," said he, "that is mentioned in the indictment, is conspiring, compassing and imagining the death of the KING. To prove the conspiracy and design of the King's death, two principal overt-acts are insisted on." He did not consider the overt-act of conspiracy to be the Treason, but evidence to prove the compassing. He then sums up the evidence for and against the Prisoner, and leaves the intention to the Jury as matter of fact. Afterwards he comes to answer the Prisoner's objection in point of law. "There is another thing," said Lord Chief Justice HOLT, "he did insist upon. The statute of EDWARD III. contains divers species of Treason; one is compassing and imagining the death of the KING: another is the levying war: Now," says he, (Frend), "here is no war actually levied, and a bare conspiracy to levy war does not come within the law against Treasons." To pause here a little, said Mr. ERSKINE, Frend's argument was this:—Whatever my intention might be; whatever my object by levying war might have been; whatever my design; however the destruction of the KING might have been effected by my conspiracy if it had gone on; and however it might have been my intention that it should, it is not Treason within the 25th of Edward III. To which lord Holt's reply was:—"If there be only a conspiracy to levy war, it is not Treason; it is only a substantive Treason; it is not a Treason in the abstract; but if the design and conspiracy be either to kill the KING, or to depose him or imprison him, or put any force or personal restraint upon him by force; and the way of effecting these purposes, is, by levying a war, there the conspiracy and consultation to levy war for that purpose is High Treason, though no war be levied; for such consultation and conspiracy is an overt-act proving the compassing the death of the KING." If Holt had meant to lay down that such a conspiracy to levy war in order to depose the King, without the further intention to kill him, was in itself High Treason, he would have stopped here; but that great lawyer went on to qualify his proposition by saying, that such conspiracy was an overt-act proving the compassing; that is, a conspiracy to depose the King was evidence of an intention to destroy his life. He then goes on:—"There may be a war levied without any design upon the King's person, which if actually levied is

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High Treason, though purposing and designing such a levying of war is not so." Thus, as for example, if persons do assemble themselves to act with force in opposition to some law, and hope thereby to get it repealed, this is a levying war and treason, tho' the purposing and designing is not so; so when they endeavour in great numbers, with great force, to make reformation of their own heads without pursuing the methods of the law, that is a levying war, but the purpose and designing is not so: so that the objection he makes is of no force. Here again we have a prophetic glance at the present trial: for the whole volume before the Jury went to no more than to accuse them of the design of making reformation of their own heads, and he concludes by again leaving the matter to the Jury. Lord Holt, therefore, in his address to the Jury, did not say that if a man conspired to do an act, which act might produce a given consequence, and which consequence, again building construction on construction, and consequence on consequence, might lead to the King's death —was an overt-act of compassing. But he put the conspiracy directly, with reference to the point before him, as an immediate and direct conspiracy to depose the King, and set up another:—compare this doctrine with the case before us. Let the Jury but turn their eyes to the mass on the table of the Court. He did not mean to accuse the Law Officers of the Crown, but let them reflect on the sort of circumstances that had been amassed and brought together in order to affect the Prisoner at the bar. Could any man, whatever had been his intention—whatever were his powers of discrimination, he defied him to develope the intention, drift and end of the heap before him. There was consequence added to consequence—there was speculation upon speculation—the Prisoner was to be led from this to that—the desire of enlightening his fellow-citizens was to produce a desire of reform of certain grievances—the desire of reform was to lead them to Republicanism—this was to lead them to arming and violence —and in some future time, this was to produce a change in the frame of our Government, and this change was to affect the KING's dignity, and finally this was to be taken as an overt-act of compassing his death. If it were not unfit to introduce any thing ludicrous upon so solemn an occasion, he should say that all this reminded him of the story in every child's gilt book, of "Here was the bull, that tossed the dog, that worried the cat," and so on, till you get to the house that Jack built.—Good God! in this land of security and justice, were the lives of men to be put upon such hazards? Was it in England—was it in the year 1794, that such a trial was brought into a Court of Criminal Justice? He knew that he might stop even here, and leave the life of the Prisoner confidently to the sense and conscience of the Jury, for he had marked their unwearied attention, their discriminating judgment, and he would so leave the case, if he were not anxious for the Prisoner's honour, as well as his life. Let them try him by this doctrine of Lord Holt: He told the Jury, in answer to a

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legal objection from the Prisoner, that a conspiracy to levy war was not treason, but that a conspiracy to levy it, for the purpose charged in the indictment, was an overt-act, and it certainly was relevant evidence to prove the intention; for if the conspiracy was palpable and direct to dethrone King William, the design of King William's death was an inference not of law from the act, but of reason and fact. Frend might have said that the intention was to send King William back to Holland, to resume his station of Stadtholder, but who would have believed him? If the fact was proved that he intended to depose the King, and introduce King James, they must have found the compassing of his death as an inference. The other cases of Parkyns, Layer, &c. he did not enumerate, though they all served to confirm his doctrine; but he had already so far exhausted himself, and had still so much to go through, that he must depart from his original intention of passing through all the cases *seriatim*. He referred to the case of Lord George Gordon, and he should not be afraid of the Solicitor of the Treasury, if he were to act in this way. If he was to come to the House of Commons with ten thousand men, for the purpose of having a turnpike bill repealed, and they actually did nothing but appear there, that would not be Treason. He was now brought to that part of the speech of the Attorney General, which referred to a more humble authority than any he had yet mentioned, he meant a part of his own speech on this trial, just mentioned—that of Lord George Gordon. The Attorney General had stated Mr. Erskine's own proposition on that part of that trial, as if it was against the Prisoner at the Bar in the present case; it should be remembered that Lord George Gordon was not indicted for compassing the death of the King, and Lord Mansfield said so on the trial, in which Mr. Justice Buller concurred, that the record on that trial did not contain a charge against the defendant for compassing the death of the King. —Lord Mansfield told the Jury upon that trial, 'The prisoner at the bar is indicted for that species of High Treason, which is called levying war against the King, and therefore it is necessary you should first be informed what is in law a levying war against the King, so as to constitute the crime of High Treason, within the statute of Edward III.; and perhaps, according to the legal signification of the term before that statute. There were two ways of levying war:—One against the person of the King, to imprison, to dethrone, or to kill him, or to make him change measures, or remove Counsellors:—the other, which is said to be *levied against the Majesty of the King*, or in other words, against him in his regal capacity. In the present case, it does not rest upon an implication that they hoped by opposition to a law to get it repealed, but the prosecution proceeds upon the direct ground, that the object was by force and violence, to compel the legislature to repeal a law; and therefore, without any doubt I tell you the joint opinion of us all, that, if this multitude assembled with intent, by acts of force and violence, to compel the

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legislature to repeal a law, it is High Treason.'—Such were the words of the venerable Earl of Mansfield on that trial. Now he would take the liberty, as the Attorney General had alluded to it, of quoting his own words upon the same trial. This was the sentence alluded to by the Attorney General: "*To encompass or imagine the death of the King*, such imagination, or purpose of the mind, visible only to its great Author, being manifested by some open act: an institution obviously directed not only to the security of his natural person, but to the stability of the government; the life of the Prince being so interwoven with the Constitution of the State, that an attempt to destroy the one, is justly held to be a rebellious conspiracy against the other." This was true, the destruction of the King leads to the destruction of the State; but did the converse of this doctrine follow of course, as the Attorney General seemed to insist upon? That to compass or intend any alteration in the other branches of the Legislature was compassing the King's death. The charge of compassing or imagining the death of the King, was the inference of reason from overt-acts; but did it ever enter into the mind of man, that the intention was matter of law? certainly not, for it was a fact to be determined by a Jury, and by them only; it was the inference of their reason from the facts, and not the inference of law. What the fate of the Prisoner would be, Mr. Erskine said, he knew not; he was confident in leaving it to men of honour, diligence, and attention, who would be guided by the evidence under the rule of the law, which governed this case, of real evidence in the cause. What they had heard of in the proceeding of the Secret Committees of the two Houses of Parliament, under Number A. or Number B. or Appendix C. and as to the evidence that was offered, he hardly knew where he stood when he examined it in a Court of Justice; One man heard another say something, but he took no notes of it, though employed as a spy for the purpose; another took some notes, but did not hear all that was said; a third heard something, somewhere of arms, and so on, but nothing of all this in the Prisoner's hearing. He would maintain, without fear of contradiction, that if any excess had been committed, the Spies of Government had proved that they provoked it all. Did he really believe that the prisoner was guilty, he would have taken a very different course; but believing him to be really innocent, he would defend him to the utmost of his power. The Societies, and the Prisoner at the Bar as a Member of one of them, were charged with having formed a plan to subvert the established Government of the Country, as the means of carrying into effect their traitorous purpose against the life of the King. The charge was not, that they had conspired to assemble the Convention which met at Edinburgh, but that they had conspired to assemble another Convention which never did meet. All the extraordinary evidence they had heard, and great part of it was the most extraordinary ever heard in a Court of Justice, went to prove the in-

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tention with which this ſecond Convention was to be held. Whether a Reform of Parliament was a meaſure likely to produce all the good that ſome expected from it, or all the miſchief that others apprehended, the diſcuſſion was, in the caſe of his Client, neither neceſſary nor proper. It was ſufficient to examine whether all that had been ſaid, or written, or printed, in the proceedings of the Societes on the neceſſity of Reform, for every article of whoſe conduct the Priſoner, in the idea of his Proſecutors, ought to be amenable, was ſaid *bona fide*, with honeſt intention, and in the ſincere belief of its being true, or reſorted to as a mere ſtalking horſe, behind which to prepare the ſhafts of treaſon, and take aim at the life of the King. He was ready to confeſs that, if the ſame defects in the Repreſentation of the People in Parliament had not been noticed in any former period, had never occurred to perſons in much higher ſtations, and, as far as motives of ſelf-intereſt could attach men to any ſyſtem, to perſons who had a much more important ſtake in the Conſtitution of the Country, he might have been led to ſuſpect that the intention of thoſe Societies was not exactly what they profeſſed. Happily, however, this was not the caſe. That the Repreſentation of the People in Parliament was defective, that many and great abuſes had crept into it, and that the health and longevity of the Conſtitution depended upon the correction of thoſe abuſes, was a doctrine ſupported by many and high authorities. On maintaining this doctrine, the great Lord Chatham built the fame and glory of his life, and bequeathed it to his ſon, who raiſed upon it his own fame and fortune. If the Counſel for the proſecution had choſen to carry their evidence ſo far back, they would have found that the Society for Conſtitutional Information, owed its birth to Mr. Pitt and the Duke of Richmond, whoſe plan of Parliamentary Reform, was Univerſal Suffrage and Annual Elections: and although he thought, with thoſe whoſe political opinions he had been accuſtomed to conſider with more reſpect, that this would not be an improvement, yet he could not imagine that they, who originally promulgated or ſtrenuouſly ſupported it, had in contemplation the ſubverſion of the Government, much leſs were compaſſing the death of the King.

The Duke of Richmond was a man of great fortune, of the higheſt rank, and it was not to be imagined, that by contending for Univerſal Suffrage and Annual Election, he meant to ſubvert the Government, and ſtrip himſelf of his own honours. The Duke of Richmond was not only a man of high rank, but well known to be a man of extenſive reading and deep reflection. The plan he propoſed, as the only adequate plan for a Reform of Parliament, was not the offſpring of raſhneſs or folly, but of information and reflection. The Duke of Richmond ſaid what he (Mr. Erſkine) ſhould be ready on all occaſions to ſay; and he cared not how many of ſuch miſerable ſpies as had been brought forward to give evidence on this trial, were preſent to take down his words, or, as was more commonly their practice to report what they thought fit,

ſt to underſtand by his words, without taking them down; that if the Repreſentation of the People in Parliament was not reformed, if the abuſes that had crept into it were not corrected, abuſe accumulating upon abuſe muſt inevitably lead to a Revolution. The Duke of Richmond publiſhed his plan in 1782. The plan was addreſſed to Colonel Sharman, and propoſed appointing Delegates by aſſemblies of the People, no matter whether ſtyled Conſtitutional or Correſponding, or any other Societies to meet in a general Convention. The terms, Delegates and Convention, were, therefore, no new inventions, no imitations of a French model, but the natural growth of our own ſoil. When the Convention met at Edinburgh, although many imprudent ſpeeches were made in it, ſpeeches which he had no inclination, and which the defence of his Client certainly did not call upon him to juſtify, the declared intention of thoſe who compoſed it, was to obtain what they, following high and unſuſpected authorities, were taught to believe the unalienable Rights of the People. A free and fair Repreſentation in the Commons Houſe of Parliament was the unalienable Right of the People. He did not mean to ſtate this as a right to be recognized in a Court of Juſtice, in oppoſition to poſitive Law, by which Courts of Juſtice could alone be guided, but as a right, not of new imagination, ſanctioned by the moſt unimpeachable authorities, and in proſecuting which by legal means no man incurred either guilt or cenſure. On this Right was founded the Right of his Majeſty to the Throne, as he himſelf had maintained in Parliament, in oppoſition to the then newly adopted tenets of Mr. Burke. The Counſel for the Proſecution muſt prove the intention charged in the indictment, and that ſatisfactorily—not by proof of ſurmiſe and conjecture. To illuſtrate this he quoted a paſſage in Chief Juſtice Eyre's charge to the Grand Jury, "Whether this be a veil under which treaſon is concealed, &c."—He had no doubt but when this humane language was held, the Judge was unacquainted with the whole of the caſe; but it was ſufficient to ſhew that on the ſurface of it his Client, and thoſe with whom he was implicated, were not traitors.—He next quoted a paſſage from Holt, importing that forced or ſtrained conſtructions are not to be put upon men's words or actions, but that the intention of them is to be tried and made out by clear and palpable evidence. Now let the intentions of the Priſoner and his aſſociates be tried by this criterion. Were they the firſt to take up the doctrines now charged upon them as proofs of a treaſonable purpoſe? The firſt Witneſs from Sheffield ſaid that he acted upon theſe doctrines as the Duke of Richmond had done, whom he never imagined to have any intention of ſubverting the Government, or compaſſing the death of the King. He did not mean to ſay that one man's having committed a crime with impunity would juſtify another in committing a like offence; but that if one man had circulated particular opinions, without ever being accuſed or even ſuſpected of evil intention, the circulation of the ſame opinions by other men

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was not to be held as evidence of evil intention. To whom did the Duke of Richmond transmit and recommend his plan? To Societies provided with half a dozen pikes? No; to Colonel Sharman, at the head of 10,000 men, armed and in military array: to men not commissioned by the King; to the Volunteers of Ireland, to whose exertions it was owing that his Majesty now enjoyed the Crown of Ireland. These men, so armed and arrayed, held a Convention, not secretly, but in the face of day,—By the authority of the King? No. By the authority of the Lord Lieutenant? No. By the authority of circular Letters; and so far was this from being stigmatised as treason, that their demands were complied with—wisely and properly complied with—for to grant the People their Rights was the surest way to harmonize their minds, and attach their affections to the Government. Of all the witnesses called on the part of the prosecution, was there a man, except the Spies, who said that their intention was any other than a Reform of Parliament by legal and constitutional means? If the Spies were not to be believed, in contradiction to all the other witnesses, the Court and the Jury were mispending their time; they might close their proceedings at once, and go home. All but the Spies said, that they would have renounced the Society with indignation, if they had believed there was any intention of deposing or killing the King. How could the poor Prisoner at the Bar hate the King, from whom it was impossible he could ever have received any injury? Was not the character of his Majesty such as to conciliate the love and affection of his subjects? Did he not confide so much in that affection as daily to ride abroad among them, without the parade of guards or attendants? Where, then, was the ground of this black suspicion, as unworthy of the King as unmerited by his People. The minds of the men who composed those obnoxious Societies, were irritated into intemperance by the representation of those who were now his Majesty's Ministers, of the abuses flowing from the decay of Representation and the consequent corruption of Parliament; and, if the Prisoner at the Bar should be hanged, while the Duke of Richmond was called to a seat in the Cabinet, he should say—

> "——————— Plate sin with gold,
> "And the strong lance of Justice hurtless breaks;
> "Arm it in rags, a pigmy straw doth pierce it."

He should say, that, with respect to the protection of known law, we were in as bad a state as the People of France, where there was now no law: but there too, he had no doubt the People would yet claim and obtain law, as the most valuable of their rights. In 1782, during the disastrous period of a War, pursued with as ill success as the principles upon which it was undertaken were bad, when increase of taxes and decline of commerce had generated discontent in every corner of the Country, and turned the minds of men to no mild scrutiny of the defects of Government,

Government, the Duke of RICHMOND's plan of Reform was publiſhed, and Conventions were held, which even arrogated the controul of the expenditure of public money, a function which had ever been underſtood to belong excluſively to Parliament. Here was a direct uſurpation of the authority of Parliament which his Clients were charged only with intending. "Let us hear," ſaid Mr. ERSKINE, "Mr. Burke on the nature and character of the Houſe of Commons, not with regard to its legal form and power, but to its ſpirit, and to the purpoſe it is meant to anſwer in the Conſtitution. The Houſe of Commons was ſuppoſed originally to be *no part of the ſtanding Government of this country*; but was conſidered as a *controul* iſſuing immediately from the people, and ſpeedily to be reſolved into the maſs from whence it aroſe. In this reſpect, it was in the higher part of Government what Juries are in the lower. The capacity of a Magiſtrate being tranſitory, and that of a Citizen permanent.—(Citizen! It would be as dangerous now to mention the word *Citizen*, as to mention the word Pikes).—The latter capacity, it was hoped, would of courſe preponderate in all diſcuſſions, not only between the people, and the fleeting authority of the Houſe of Commons itſelf. It was hoped that being of a middle nature between ſubject and government, they would feel with a more tender and nearer intereſt, every thing that concerned the people, than the other remoter and more permanent parts of the legiſlature. Whatever alteration time and the neceſſary accommodation of buſineſs may have introduced, *this character can never be ſuſtained, unleſs the Houſe of Commons ſhall be made to bear the ſtamp of the actual diſpoſitions of the People at large.* It would (among public misfortunes) be an evil more natural and tolerable, that the Houſe of Commons ſhould be infected with every epidemical phrenzy of the people, as this would indicate ſome conſanguinity, ſome ſympathy of nature with their conſtituents, than that they ſhould in all caſes be wholly untouched by the opinions and feelings of the people out of doors. *By this want of ſympathy they would ceaſe to be an Houſe of Commons.*" Mr. Burke goes on to ſtate, that "The virtue, ſpirit, and eſſence of the Houſe of Commons conſiſts *in its being the expreſs image of the feelings of the nation.* It was not inſtituted to be a controul *upon* the People, as of late it has been taught, by a doctrine of the moſt pernicious tendency, but as a controul for the People." Thus we ſee that the true intent of the Houſe of Commons is not to act as a controul upon the People; the King and the Houſe of Lords are the conſtitutional controul, and the Commons the voice and organ of the People. But how are they this organ, if they are not choſen by the People, which they now notoriouſly are not. To be convinced of this, it is only neceſſary to look at the report of the Society of the Friends of the People, which they offered to ſubſtantiate by evidence at the bar of the Houſe of Commons, and which to this hour ſtands uncontroverted. Let us hear Mr. Burke on the Houſe of Com-

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mons as it is now conſtituted. "An addreſſing Houſe of Commons and a petitioning Nation; an Houſe of Commons full of confidence, when the nation is plunged in deſpair; in the utmoſt harmony with Miniſters, whom the People regard with the utmoſt abhorrence; who vote thanks, when the public opinion calls upon them for impeachments; who are eager to grant when the general voice demands account; *who, in all diſputes between the People and Adminiſtration, preſume againſt the People; who puniſh their diſorders, but refuſe even to enquire into the provocations to them; this is an unnatural, a monſtrous ſtate of things in this Conſtitution.* Such an Aſſembly may be a great, wiſe, awful Senate; but it is not to any popular purpoſe an Houſe of Commons." This, he ſays in his 'Thoughts on the Cauſe of the Preſent Diſcontents,' coolly, ſoberly and deliberately written during the American war, and the word *preſent* will as well apply to this time as to that. So far is the Priſoner from being conſcious of evil intention, ſo far from imagining he is engaged in a conſpiracy to ſubvert the Conſtitution, that he writes a letter to the moſt eminent and able Defender of the Conſtitution, a Member of Parliament and a Privy Councillor (Mr. Fox), deſiring him to preſent the Petition of the Society to the Houſe of Commons. The anſwer to that letter, although ſtating that Mr. Fox is an avowed enemy to Univerſal Suffrage, he preſerves among his papers, and it has been read to you as evidence in ſupport of the proſecution. He writes alſo to the Society of the Friends of the People, whoſe ſole object he knows to be a Reform of the Repreſentation in the Commons Houſe of Parliament. They alſo return an anſwer, never once ſuſpecting that the object of the Correſponding Society is any thing but a Reform of Parliament, although they diſapprove of their mode of purſuing that object. Then come the Crown Lawyers, and ſay, we underſtand better what is meant by theſe letters than thoſe who write them, or thoſe to whom they are written, you ſay they mean only Parliamentary Reform, we, the interpreters of your moſt ſecret thoughts, tell you that they mean ſubverting the whole frame of the Government, and deſtroying the King. Mr. Erſkine again referred to a paſſage from Mr. Burke, importing that Miniſters had made a lodgment in Parliament, that by laying hold of Parliament itſelf they had the power of obtaining their object in all caſes, and upon all occaſions. The propoſition contained in this paſſage was unqualified; it was not reſtricted to this or that occaſion, but extended to all occaſions; it aſſerted that the controul of the people over the Executive Power was wholly and abſolutely loſt. Not ſo, ſaid the Defendants; they ſaid nothing was loſt but the controul of the People in the Houſe of Commons. Would any man ſtand up and ſay he diſbelieved this?—if he did, no body would believe him. The Council for the proſecution contended, that to attack the Parliament was to attack the KING, becauſe the KING was an eſſential part of Parliament. By no means—Who, in talking of Parliament in common acceptation,

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was ſuppoſed to mean the KING? When theſe Societies attacked what they thought the abuſes of Parliament, they meant what thoſe who went before them had meant—the abuſes in the repreſentation, which might all be corrected without trenching in the leaſt on the natural or political exiſtence of the King. But, it was ſaid, they talked of reforming Parliament by exciting the People. Mr. Burke had ſaid before them, that no remedy for the diſtemper of Parliament could be expected to be begun in Parliament; and that the People muſt be excited to meet in Counties and in Corporations, and make out, if they could, liſts of thoſe who voted, and on what ſide; in ſhort, that to obtain any correction of the abuſes in the Houſe of Commons, the impulſe muſt come from the People.

After a petition for Reform, in 1780, had been rejected, the Duke of Richmond wrote in a manner much ſtronger than thoſe who were now accuſed of conſpiring to lay hold of the Parliament by violence: he wrote that the leſs Reform had been tried and failed;—that not one proſelyte had been gained;—that the weight of corruption was ſuch as to bear down every thing;—that he had no hopes of Reform from the Houſe of Commons;—that Reform muſt come from the People themſelves; and that they ought to meet more numerouſly than ever to claim their undeniable rights, Univerſal Suffrage and Annual Elections. How were the People to aſſert theſe rights after Parliament had refuſed to grant them? In this manner the perſons now under proſecution had done, and profeſſed to do—not by rebellion, but by collecting and bringing before Parliament the weight and influence of collective opinion. It was ſaid that this war againſt the State had amounted to Rebellion—The aſſertion was unfounded—What was the State? The State was the Body of the People, with their Sovereign at their head; nothing was Rebellion that had not for its object the deſtruction or enſlaving of the People and their Sovereign ſo connected, and he truſted he ſhould never hear again that the People all meeting, muſt mean to depoſe the KING—that the King ſtood only ſupported by the few who called themſelves the King's friends, and branded all others with the name of Democrats, or Jacobins, or whatever elſe was the nick-name of the day. It was clear from the beginning to the end that the Societies with which the Priſoner was connected, ſpoke only of the Repreſentation in the Houſe of Commons; and he would maintain as they did, that they had a right to do ſo; and he knew that if the people were ſo met, they would be for the continuance of the Crown. It was their inheritance—what a dangerous principle it would be for to lay down, that if the People were collected together, the neceſſary conſequence muſt be the deſtruction of the KING? the KING's protection ſtood on the love of the People collectively, not on the adherence of this or that deſcription of men, and to ſay otherwiſe was a libel both on King and People. He was ſorry to hear any man called a traitor for talking of the Rights of Man. The Duke of Rich-

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mond had long ſince ſaid that they were the foundation of all legitimate government. Becauſe men profeſſing, but abuſing the ſame ſentiments, had deſtroyed every thing in France, it ought not to be faſtened upon the Priſoner, that he, profeſſing to claim the Rights of Man, meant alſo to deſtroy every thing in England. Before going into the Duke of Richmond's definition of the Rights of Man, he would mention one more in his recollection, becauſe it aroſe out of a diſcuſſion, in which it was his fortune to bear a part. In the debates upon the memorable India bill, one of the moſt popular topics of declamation againſt it was, its being an attack upon the chartered Rights of Men. Mr. Burke took fire at the expreſſion: he ſaid he did not know what was meant by the chartered Rights of Men. He feared there was ſomething in this more than was indicated by the affectation of the phraſe. For what end, but the end of the moment, was the word *chartered* introduced, for the Rights of mankind were founded in nature, and needed no charter to give them ſanction. Chartered Rights he had always underſtood to be matter of compact, and to be forfeited by breach of compact; but the natural Rights of Man were ſacred, and could neither be lawfully forfeited nor infringed. Let thoſe who call themſelves the champions of the authority of the Crown, take care that they do not pull down what they profeſs to ſupport. Let them beware of weakening his Majeſty's Rights, by the very means they adopted to confirm them. The ancient Kings of this country abuſed their government by cruel and infamous trials, by more cruel and infamous puniſhment, by packing juries, by arbitrary impriſonments, by ſcandalous abuſe of law, by depriving the People of arms; thus not only their Government but their perſons became odious; they dreaded to aſſemble the People; and when King William iſſued his writs calling the people to meet, they did not meet; but had they met, the general conſent of the people would have been given to his acceſſion. He recognized their rights under a Law which all knew and all revered—the Bill of Rights—Rights which they always had; and here began the miſchief in conſequence of which the Court was now ſitting. The denial of that propoſition brought Mr. Paine into this country. But for this denial Mr. Paine never would have been an author amongſt us. Why came Mr. Paine here as an author? To anſwer Mr. Burke, who denied the King's right to the Throne by denying the right of the People to alter the ſucceſſion. The French had pulled down a ſyſtem of corruption and tyranny, ſo enfeebled by its own inherent defects, that it was ready to fall of its own accord. Mr. Burke denied their right to do this. Mr. Paine wrote an anſwer, and as a Republican threw in much ſtuff about Monarchy, which had nothing to do with the main queſtion. The firſt part of the Rights of Man was applicable only to France. But a book called an Appeal from the New to the Old Whigs, applied it to the Government of this country. Mr. Paine arrived, and notwithſtanding his firſt intentions, this attack

exaſperated

exasperated his spirit, and he wrote a second part of his Rights of Man, in which he vindicated the Rights of the People in this or any other country to change their Government. Mr. Erskine said he would vindicate, in presence of as many spies as could be collected, the Right of the People to oppose Despotic power, and to change the form of their Government, when that form was radically and essentially bad. He had opposed, and would always oppose, the Right of Despots to prevent any people from forming a Government for themselves, of the sweet or bitter fruits of which they themselves must eat. If the People of France were to say to the People of England, "You shall have a Republican form of Government," the People of England would say, "No; we have already chosen our form of Government, a mixed form, a limited Monarchy, which we approve, and if we did not, we would receive a form of Government from no power on earth but our own."—The People of England have a right to change their Government if they please; they will not, if you use them well; but it is to the denial of this principle, all the calamities of these trials are to be imputed. The Duke of Richmond's plan proceeded on the Rights of Man.—His Grace, however, had not the merit of being the inventor. He adopted the ideas of Mr. Locke; and so did Mr. Yorke, in his speech delivered on the Castle Hill, Sheffield. Mr. Yorke indeed had hardly the merit of adopting, for he recited what Locke had written almost verbatim. Mr. Erskine read the Duke of Richmond's Letter to the Sheriff of Sussex, in 1780, in which he observed there was much good sense, although he could not agree to the whole. It concluded with asserting "that the People have rights, know they have rights, and will assert and obtain them." How obtain them? by peaceable means, which was all that the Prisoners had attempted. If they libelled Government, if they resisted the Magistrate in the due execution of his duty, if they committed any legal offence, they were amenable to legal punishment. But when men were considering on Constitutional means of effecting a purpose, they could not be found guilty of the crime charged in the Indictment. Let no worse motives be imputed to the Prisoner than to so many others who had pursued the same object, much less the highest of all crimes, the crime of treason. Suppose these Societies, which they never did, had resolved to petition Parliament no more. Was there no way for the People to bring about a Reform in Parliament by peaceable means? The Attorney General seemed to think that Parliament was a part of the permanent Government, forgetting that it died a Constitutional death at certain periods, and that there was no necessity for reviving it in the same form. A voter had a right to say, "I will vote for no Parliament that is disposed to resist my rights; I will vote for none who will not call us, the People, their Constituents; I will vote for none who reject our petitions; I will not arm a few individuals with power to collect taxes, to pass coercive laws, and to be used only against ourselves. Such are not the true House of Commons of Great Britain. I will

will oppose such an House of Commons, not by tumult and insurrection, but by concurring in the appointment of Delegates, to consider how my rights may be supported." Such language the People of this country had a right to hold; and how were they to act upon it? They might petition the KING. They might give weight to their Petition by shewing that it had the sanction of the public opinion. To collect this opinion they might say, "We will not assemble in numbers, for that might give rise to tumult; but we will assemble in our respective neighbourhoods, and appoint Delegates with instructions to confer with other Delegates; and thus without danger or inconvenience, we shall collect the public sentiment, and carry it to that place where we know it will be treated with respect. In this way we shall obtain our imprescriptible Rights." This they must do, because a Court of Justice could not give them their imprescriptible Rights, consistently with the administration of the law; but a Court of Justice could do that which it was called upon to do in this case; it would not on any presumption of evil intention punish any man for legal acts done in pursuit of these Rights. The Attorney General seems to think that petitioning the KING on the subject of Parliamentary Reform, was to ask him to do that which his coronation oath forbade him to do, and consequently could only mean to compel him by force. Mr. ERSKINE said, he did not understand what was meant by this. He never heard it argued that, but for the articles of Union with Scotland, the King might not alter the composition of the House of Commons, as far as depended on calling in new places and persons to elect, without the consent of the House of Commons. This was the opinion of Mr. Locke, a man inferior to none his country ever produced, except Sir Isaac Newton.

MR. ERSKINE here quoted the opinion of Locke upon this subject, from his Treatise on Government, B. II. chap. xiii. sec. 157-158. This book was written in answer to the Jacobites, who denied the right of King William to the Throne; and when Dr. Sacheverell attempted to refute the doctrines it contained, by referring to the exploded doctrines of Divine Hereditary Right and Non-resistance, he was impeached by the Commons, and found guilty by the Lords.

MR. ERSKINE then proceeded to recapitulate the evidence, observing that he had been obliged to omit many and important topics of general defence, in order to apply his attention to disembroiling the chaos which he had had no time to consider but by the indulgence given him by the Court and the Jury. The original Address of the Corresponding Society they would not have published, had they thought it criminal. They not only published it, but they sent it as a circular letter by post, addressed to various persons, and even a copy of it to the Secretary of State. On the tremendous evidence adduced in this trial, he observed that a song found among Hardy's papers had been produced against him, without the shadow of proof that it had been written, publish-

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ed, or even approved by him. He had received it, as many things were received by men of all descriptions in this town, without knowing whence it came. It had been perhaps dropt down his area. If such evidence were held sufficient to affect a man's life, he (Mr. Erskine), who received and read papers of all sorts, had probably now in his house evidence sufficient to hang him and his whole family. The Address of the Society was founded on the Duke of Richmond's letter to Colonel Sharman, containing a plan, upon which men of high rank sat as Delegates in the city of London, with Aldermen of the city of London. A little time before the Convention at Edinburgh, a Convention of Delegates from the counties of Scotland met, of which the Chief Baron of his Majesty's Exchequer in Scotland was Chairman, and the Lord Advocate, the Dean of Faculty, and Sir Thomas Dundas, now Lord Dundas, sat as Members. An application had been previously made to Parliament, for a Reform in the mode of electing Members for the counties, and rejected. What did this meeting of Delegates according to their own advertisements? They met for the purpose of altering and amending the Law; they agreed upon certain heads, and resolved to send them, where? To Parliament?—No; but to the several counties of Scotland to collect opinions and signatures. Was this meeting called treasonable?—No; it would have been called scandalous to impute treasonable motives to any man who attended it. The object of the Corresponding Society on the first piece of evidence, viz. their own Address, was Reform of Parliament, by legal means. Would the Jury impute to his Client, against whom not a contumelious word respecting Government had been proved, the shocking crime of Treason for supporting a measure, sanctioned by so many and so recent authorities? Let them read the lines prefixed to the Address of the Corresponding Society, and see if they could find any thing in their subsequent proceedings to match them.

Unblest by virtue, government a league
Becomes, a circling Junto of the great
To rob by Law; Religion mild, a yoke
To tame the stooping soul, a trick of State
To mask their Rapine and to share the prey.
Without it; what are Senates, but a face
Of consultation deep and reason free,
While the determin'd voice and heart are sold?
What, boasted Freedom, but a sounding name?
And what Election, but a market vile,
Of Slaves self-bartered——

Yet these verses were written by Thomson, under the roof of Lord Littleton, under the protection of the Prince of Wales, who perhaps thought that the Rights of the People were the surest guarantee of his own Rights.—By a man who had studied and understood the British Constitution, who venerated liberty, but loved order—by a man whose works had been the delight of a nation,

a nation, and to whose memory a monument was now erecting. If the objects of the Societies were treasonable, then every man who had been a Member of any one of them was guilty of Treason, and he held his life as tenant at will of the Attorney General. Of the Conventions either held or proposed, the Attorney General imputed the whole original sin to the London Corresponding Society. The contrary, however, was the fact. A Convention of Delegates from the Scots counties had been held as above mentioned at Edinburgh; and the Societies in Scotland, on the usual principle of national vanity, resolved to imitate the example. They agreed on a Convention of their own, and invited the London Societies to send Delegates to it. Some of them sent Delegates, whose instructions were that they should concur in all Constitutional acts for a Reform in the Representation of the People. Every man was bound by the acts of his agent within the limits of his agency; but if an agent sent to buy horses, should think fit to steal horses or commit Treason, his employer would be amenable neither for the Felony nor the Treason.—By the same rule, no acts concurred in by those Delegates which were not within the letter of their instructions, could affect the Societies by which they were sent.—Mr. Erskine arranged, and commented upon the whole of the evidence in a masterly manner, illustrating every objection he took to it by the most apposite and pointed remarks. He warned the Jury against giving their sanction to constructive Treasons, and repeated Dr. Johnson's remark on the acquittal of Lord George Gordon—"I hate Lord George Gordon, but I am glad he is acquitted, because I love my country, and love myself." He remarked with particular severity on the attempt to implicate Hardy in the charge of providing arms, on no better evidence than because a man at Sheffield had written a letter to him, offering to make pikes, and desiring him to forward another letter of the same tenour to Norwich, although it clearly appeared that Hardy had never read the letter addressed to himself to any body, nor forwarded the letter to Norwich; and on the still more atrocious attempt to implicate him in the business of Watt at Edinburgh, from the mere circumstance of Watt's having written a letter on the subject to Hardy, with whom he had never corresponded before, and from whom he had received no answer to his letter. If such evidence were to be tolerated, the most innocent and meritorious man living might be stript of his fortune, reputation, and life, by any ruffian who chose to address a treasonable letter to him, and get it conveyed into his house. If the witnesses for the Crown, not spies by profession, were worthy of credit, then the prisoner was innocent—if they were not, then the testimony of the spies, admitted on all hands to be insufficient of itself, was left totally destitute of support. One or other side of the alternative must be taken. It was impossible to say that the witnesses for the Crown were to be believed where their testimony made against the Prisoner, and disbelieved where it made for him. If the

testimony

testimony of the spies could be supported by other witnesses, whose evidence would not prove at the same time that the Prisoner never harboured the treasonable intention imputed to him, why were they not produced?—For this reason only, that out of more than 40,000 members of the several Societies, none could be found. On the character of spies, having no eloquence of his own, he would avail himself of the eloquence of a writer who had much (Mr. Burke).

"A mercenary Informer knows no distinction under such a system, the obnoxious people are slaves, not only to the Government, but they live at the mercy of every individual; they are at once the slaves of the whole community, and of every part of it; and the worst and most unmerciful men are those on whose goodness they most depend. In this situation men not only shrink from the frowns of a stern Magistrate; but are obliged to fly from their very species. The seeds of destruction are sown in civil intercourse, and in social habitudes. The blood of wholesome kindred is infected.—Their tables and beds are surrounded with snares. All the means given by Providence to make life safe and comfortable, are perverted into instruments of terror and torment. This species of universal subserviency, that makes the very servant who waits behind your chair, the arbiter of your life and fortune, has such a tendency to degrade and abase mankind, and to deprive them of that assured and liberal state of mind, which alone can make us what we ought to be, that I vow to God I would sooner bring myself to put a man to immediate death for opinions I disliked, and to get rid of the man and his opinions at once, than to fret him with a feverish being, tainted with the jail-distemper of a contagious servitude, to keep him above ground, an animated mass of putrefaction, corrupted himself, and corrupting all about him." My whole argument, therefore, says Mr. Erskine, asserts no more than this, That before the crime of compassing the King's death can be found *by you, the Jury*, whose province it is to judge of its existence—it must be believed *by you* to have existed in point of fact. Before you can adjudge a fact, you must believe it—not suspect it, or imagine it, or fancy it—but believe it—and it is impossible to impress the human mind with such a reasonable and certain belief, as is necessary to be impressed, before a christian man can adjudge his neighbour to the smallest penalty, much less to pains of death, without having such evidence as a reasonable mind will accept of, as the infallible test of truth. And what is that evidence?—Neither more or less than that which the Constitution has established in the Courts for the general admission of Justice, namely, that the evidence convinces the Jury beyond all reasonable doubt, that the criminal intention, constituting the crime, existed in the mind of the man upon trial, and was the main spring of his conduct. The Rules of Evidence, as they are settled by law, and adopted in its general administration, are not to be over-ruled or tampered with. They are founded in the

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charities of Religion—in the philosophy of Nature—in the truths of History, and in the experience of common life. And whoever ventures rashly to depart from them, let him remember that it will be meted to him in the same measure, and that both God and man will judge him accordingly. Gentlemen, these are arguments addressed to your reasons and consciences, not to be shaken in upright minds by way of precedent, for no precedents can sanctify injustice;—if they could, every human right would long ago have been extinct upon the earth. If the State Trials, in a bad hour, are to be searched for precedents, what murders may you not commit; what law of humanity may you not trample upon; what rule of justice may you not violate; and what maxim of wise policy may you not abrogate and confound? If precedents, in bad times, are to be implicitly followed, why should we have heard any evidence at all? you might have convicted without any evidence, for many have been so convicted in this manner, murdered even by Acts of Parliament. If precedents, in bad times, are to be followed, why should the Lords and Commons have investigated these charges, &c. and the Crown have put them into this course of judicial trial, since, without such a trial, and even after an acquittal upon one, they might have attainted all their Prisoners by Act of Parliament?—They did so in the case of Lord Strafford.—There are precedents, therefore, for all such things:—But such precedents as could not for a moment survive the times of madness and distraction which gave them birth, and which, as soon as the spurs of the occasion were blunted, were repealed and execrated, even by Parliaments; which, little as I may think of the present, are not to be compared with it—Parliaments sitting in the darkness of former times, in the Night of Freedom, before the principles of Government were developed, and before the Constitution became fixed. The last of these precedents, as I before stated to you, and all the proceedings upon it, were ordered to be taken off the file and burnt, to the intent that the same might no longer be visible in after ages; an order, dictated no doubt by a pious tenderness for national honour, and meant as a charitable covering for the crimes of our fathers:—But it was a sin against posterity, it was a treason against Society—for instead of commanding them to be burnt, they should rather have directed them to be blazoned in large letters upon the walls of our Courts of Justice, that, like the characters decyphered by the Prophet of God to the Eastern Tyrant, they might enlarge and blacken in your sights, to terrify you from acts of injustice. In times when the whole habitable earth is in a state of change and fluctuation, when desarts are starting up into civilized Empires around you, and when men, no longer slaves to the prejudices of particular countries, much less to the abuses of particular Governments, enlist themselves like the citizens of an enlightened world into whatever communities shall best protect their civil liberties, it never can be for the advantage of this country to prove that the strict unextended let-

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ter of our law is no certain ſecurity to its inhabitants. On the contrary, when ſo dangerous a lure is held out to emigration, it will be found to be the wiſeſt policy of Great Britain to ſet up her happy Conſtitution, the ſtrict letter of her guardian laws, and the proud condition of her equal freedom, which her higheſt and loweſt ſubjects ought equally to enjoy. It will be her wiſeſt policy to ſet up theſe firſt of human bleſſings againſt thoſe charms of change and novelty which the varying condition of the world is hourly holding out, and which may deeply affect the population and proſperity of our country. In times when the ſubordination to authority is ſaid to be every where but too little felt, it would be found to be the wiſeſt policy of Great Britain to inſtil into the governed an almoſt ſuperſtitious reverence for the ſtrict ſecurity of the laws, which from their equal adminiſtration, can ſeldom work injuſtice, and which, from the reverence growing out of their mildneſs and antiquity, acquire a ſtability in the habits and affections of men far beyond the force of civil obligation; whereas ſeveral penalties and arbitrary conſtruction of laws intended for eaſe and protection, lay the foundations of alienation from Government, which, at all times is dangerous, but at this time is certain and ſudden ruin. Cultivate the old maxim in the Church, *ſurſum corda*; look to the hearts of all your ſubjects, and do not entertain ſo ſtupid an imagination as that in days like theſe, a country can be preſerved by corrupting one half of the People to defame, bully, and perſecute the other.

At a time when England may be put to great difficulties to ſupport herſelf, even when the whole nation draws together with one heart and accord, is it wiſe at ſuch a time to ſet up Lawyers to tell us that every man who ſees and feels, and is determined to aſſiſt in removing the corruptions which are the parents of theſe calamities, are traitors to the Sovereign, and plotters of his death? Gentlemen, if this doctrine is eſtabliſhed by your verdict, you do not leave your Sovereign, the King, one half his ſubjects, and although you may, in the ordinary courſe of things, keep the peace in England upon theſe principles, by armed aſſociations and the terrors of legal tribunals, yet, if ever the independence of the nation were aſſailed by foreign force, in one hour would deſolation come upon you. Look to the fruit of theſe miſerable factions and diviſions in Brabant! If the late Emperor Joſeph had given to his ſubjects fully, and at once, the *Joyeuſe Entrée*, their ancient Conſtitution, derived from the good duke of Burgundy, to obtain which, I remember the ſame movements as in this country for the reform of Parliament—they would—I know what I ſay—it is not what I have heard or read of—I have ſeen the proceſs of the thing of which I am ſpeaking—they would have riſen in a maſs to maintain their own liberties and their Prince's throne, thus interwoven together, and the French, like the Giants of Antiquity (and they are indeed the Giants of modern times,) when they attempted Heaven, would have been rolled and trampled in the mire of their ambition.

 But

But instead of this concession in due time, the Prussian army marched into Brabant, and all was peace—but it was such a peace as there is in Vesuvius or Ætna before they vomit forth their lava, and roll their conflagrations over the devoted habitations of men! When the French approached, the fatal effects were seen of a Government of constraint and terror; the well-affected were dis-spirited, and the irritated were inflamed into fury. At that moment the Archduchess fled from Brussels, and the Duke of Saxe Teschen was sent to offer them the *Joyeuse Entrée*. But the season of concession was past away; and the Throne of Brabant has departed from the House of Austria —I fear, for ever! In the same way, a far more important and splendid Throne departed from his Majesty's illustrious House. I will not give you my own words; I will again refer to the almost divine and immortal oration of Mr. Burke:—

"For that service, for all service, whether of revenue, trade, or empire, my trust is in her interest in the British Constitution. My hold of the Colonies is in the close affection which grows from common names, from kindred blood, from similar privileges, and equal protection. As long as you have the wisdom to keep the sovereign authority of this country as the sanctuary of Liberty, the sacred temple consecrated to our common faith, wherever the chosen race and sons of England worship Freedom, they will turn their faces towards you. The more ardently they love Liberty, the more perfect will be their obedience. Slavery they can have any where. It is a weed that grows in every soil. They may have it from Spain; they may have it from Prussia: but, until you become lost to all feeling of your true interest and your national dignity, Freedom they can have from none but you. It is the spirit of the English Constitution which pervades, feeds, unites, invigorates, vivifies every part of the Empire, even down to the minutest Member. Is it not the same virtue which does every thing for us here in England? Do you imagine that it is the Land-tax Act which raises your Revenue, that it is the annual vote in the Committee of Supply which gives you your Army? or that it is the Mutiny Bill which inspires it with bravery and discipline? No! surely no! It is the love of the People—it is their attachment to their Government, from the sense of the deep stake they have in such a glorious institution, which gives you your army and your navy, and infuses into both that liberal obedience, without which your army would be a base rabble, and your navy nothing but rotten timber."—Such was the language of that sublime writer, whose opinions if they had been followed, would have done more than saved you America; it would have saved you the affections, and the admiration of mankind. Instead of this you were mad to persevere in that horrible contest, to procure the means of extending that corruption at home, over those whom Mr. Tooke is represented to have called the Skip Jack Nobility, and in so doing you lost the Colonies for ever.

My

My wiſh and my recommendation is not to conjure up a ſpirit among us to deſtroy ourſelves, by bringing on the tyranny of a French tribunal, where an accuſation is enough to bring its object to the guillotine. Let us keep to the old and venerable rules and laws of our forefathers; and let a Jury of the country feel the duty they owe the public, to themſelves, to poſterity, and to God, to preſerve by law the life of a man who only aſks it of them on the terms they would, in their turn, aſk their own. I ſhall now conclude with a fervent wiſh and a fond hope, that it may pleaſe God, who guides the world, moulds Governments at his will, and who governs us all in juſtice and mercy; from whoſe care and bounty has ariſen the proſperity and glory of this happy iſland, to enlighten and direct your minds! To your care I now commit my client, without fear, being confident that you will do him juſtice.

Mr. Erskine here concluded a ſpeech of ſix hours and a half, to which we muſt lament our inability to do adequate juſtice. He ſat down ſo perfectly exhauſted, that his laſt accents were hardly audible.

The Lord President made enquiry as to the further mode of proceeding.

Mr. Erskine ſaid, that he ſhould call ample evidence to prove, that the intention of thoſe Societies were innocent and peaceable, whatever violent men, intermixed amongſt them, may have uttered. That the Priſoner was a man mild, humane, and charitable, the leaſt capable of all others, of entertaining the purpoſes attributed to him.

Witnesses called in Defence.

The Court and Jury returned into Court at nine, and, after being called over, Mr. Erſkine called

Lorimond Goddard.

Q. Are you a Member of the Correſponding Society?—A. Yes, I entered into it about two years ſince, and withdrew my name after Mr. Hardy was apprehended.

Q. Did you frequent the ſame diviſion?—A. Yes, frequently.

Q. What was his conduct?—A. The moſt orderly and peaceable. He even requeſted that no perſon would bring a ſtick, leſt it might be conſtrued into an offenſive weapon.

Q. What was his object as it appeared to you?—A. A Parliamentary Reform in the Houſe of Commons.

Q. Did it appear to you that he wiſhed to dethrone the King?—A. Certainly not.

Q. Did you ever hear him argue that the Houſe of Peers was a uſeleſs body, and ought to be aboliſhed?—A. No. His diſcourſe, when he did ſpeak, (which was ſeldom) was con-

fined entirely to the means of reforming the House of Commons.

Q. What was his general character?—A. So far as I know or have heard, perfectly harmless and honest.

Cross-examined by the Attorney General.

Q. You say that you have frequently conversed with him on political subjects?—A. Yes; and as I said before, I thought his sentiments were highly friendly to the principles of the Constitution.

Q. Was you at the meeting at the Globe?—A. Yes.

Q. Did you see the Resolutions entered into?—A. Yes, (the paper shewn) and the witness believed it was correct.

Q. Was you at the great meeting at the Crown and Anchor?—A. Yes.

Q. Did you not hear several songs at these meetings?—A. Yes, I have heard many songs after dinner, but I do not recollect the contents.

Q. Perhaps I may refresh your memory. Was there not one sung which began with the following words:

"*Plant, plant the tree,*
"*Fair Freedom's tree,*
"*'Midst blood and wounds and slaughter.*"

—A. No. I do not recollect any such words being sung; and if they were, you seem to be much better acquainted with the song than I am. (A laugh.)

COURT.—This levity is highly reprehensible, and, indeed, criminal. It is offending the dignity and solemnity of the Court. Officers, if you see any person guilty of such gross indecency, I direct you to take him into custody immediately. The crier called silence.

Q. Was you at the meeting at Chalk Farm?—A. I was, and every thing was peaceably conducted.

Q. What was the intention of that meeting?—A. I understood it was to elect fresh delegates; but the meeting was dispersed.

Q. Do you not know that a circular letter was sent by the prisoner into Scotland, and several parts of England, containing instructions for assembling a Convention at Edinburgh?—A. I have heard, but I never saw those instructions.

Q. Do you know the fact?—A. I know that Margarot and Gerald were deputed to be delegates from the Corresponding Society to the Convention, and therefore I cannot doubt the fact.

Q. Do

Q. Do you know Mr. Thelwall?—A. Yes.

Q. Then you have seen several of his Constitutional songs?—A. I have had several of them in my possession, but I cannot recollect the particular words of either of them.

Q. Did Mr. Hardy visit Margarot whilst on board the transport ship?—A. I have heard that he did, but it was after the visit had taken place.

Re-examined by Mr. Gibbs.

Q. You positively swear that during all your communication with the prisoner, you never heard or understood that his views extended beyond a Reform in the Commons House of Parliament?—A. I do positively swear so.

Q. What was that Reform?—A. I always understood it to be according to the plan laid down by the Duke of Richmond—annual elections and universal suffrage.

Francis Dowling, of New-street, Covent-garden, examined by Mr. Gibbs.

Q. What are you?—A. I am a truss-maker.

Q. Was you a Member of the Society in question?—A. I was among the earliest members, and belonged to division, No. 2.

Q. You know Mr. Hardy, and what were his public principles?—A. As far as I could learn, simply to effect a Reform in the Representation in the House of Commons.

Q. Did he wish to effect this Reform by open force, or by over-awing the Parliament?—A. By no means; his views, as far as I could learn, were to obtain the sense of the whole nation by means of a Convention, and if it should be found to be in favour of the measure, then to apply by petition to the three branches of the Legislature.

Q. Did it appear to you that he intended to abridge the King of his authority?—A. I never heard the most distant hint of such an intention.

Q. Or to abolish the House of Lords?—A. No, never.

Q. Do you know what character he bears?—A. I have always heard that he was a peaceable and orderly man, and rather inclined to a religious turn of mind.

Cross-examined by the Attorney-General.

With respect to the meetings and resolutions at the Globe Tavern, Chalk Farm, &c. his answers were very similar to those given by the last witness, and therefore need no repetition.

Q. Do

Q. Do you know Franklow, of Lambeth Walk ?—A. I do.

Q. Was not a Club formed at his houſe, called the Loyal Lambeth Aſſociation ?—A. I have heard there was.

Q. Have you heard the members of this club exerciſed themſelves with muſquets ?

A. I have heard ſo, but I do not know the fact.

Q. Have you ever ſeen a letter from Sheffield, ordering pikes to be made ?

A. I never did.

Q. Why, did you not know Edwards, one of the delegates, and Hilliard ?

A. Yes, but I never ſaw them have any pikes.

Q. Was you at Robins's coffee-houſe when Mr. Yorke took his leave ?

A. I was not.

Q. Have you ſeen a hand-bill like this, beginning, "Speedily will be performed a Farce, or, G——'s Head in a Baſket?" (the hand-bill ſhewn.)

A. No, I never ſaw or heard of ſuch a hand-bill until this time.

Q. Or this hand-bill ? (the bill ſhewn) "The Ins tell us we are in danger from an invaſion of the French.—The Outs tell us that we are in danger from the Heſſians and Hanoverians. In either caſe, we ſhould arm ourſelves; get arms, and learn how to uſe them."

A. I never ſaw this bill.

Q. Have you not heard that a bill-ſticker was employed to ſtick bills in the night ?

A. I have heard that a perſon was to be paid for that purpoſe.

Q. You admit you were at Chalk Farm, do you know what were the reſolutions entered into at that meeting ?

A. I do not recollect.

Q. Did you vote for them ?

A. Yes, I did.

Q. What, did you vote for reſolutions which you did not underſtand or hear ?

A. I voted for them on account of the good opinion I entertained of the perſons who drew them up and propoſed them.

Q. Who were thoſe perſons ?

A. I underſtand Martin, Thelwall, and Lovett.

Q. Did you ſee a paper purporting to recommend that no more petitions ſhould be preſented, as it would be uſeleſs ?

A. No, I never ſaw ſuch a paper.

Alexander Wills examined by Mr. Erſkine. This witneſs was a member of the Correſponding Society, and likewiſe

wife of the Conftitutional Society. He gave a fimilar teftimony with the other witneffes of the views and drift of the prifoner Hardy and the other members of the fociety, that a parliamentary reform in the Houfe of Commons was their fole object; that at fuch of their meetings as he had attended, he never heard any thing derogatory to the King, but on the contrary the utmoft refpect and honour; that it was never intended to overawe parliament, but to obtain a reform through the King and Parliament.

Q. What character does the prifoner bear?

A. I always underftood his character was without reproach.

Crofs-examined by Mr. Bower.

Q. What are you?

A. A dancing-mafter.

Q. What impelled you to become a member?

A. I heard there were fome clever perfons belonging to it, and not having the honour of hearing the debates in the Houfe of Commons, I thought I fhould hear fome good fpeeches.

Mr. Bower queftioned him refpecting the Chalk Farm bufinefs, the refolutions, hand-bills, &c. all of which he was unacquainted with.

Q. Do you know any thing about hand-bills?

A. I recollect that a fubfcription was made for a bill-ticker who was imprifoned.

Q. What was his name?

A. I think it was Carter.

William Sabine, a member of the fociety, was next called. —This witnefs gave the fame account of the principles of the Correfponding Society which all the other witneffes did.

Q. Did you ever fee the prifoner produce a letter from Sheffield at any of the meetings, purporting to be an anfwer from the town refpecting any orders for the manufactory of pikes?

A. No; the prifoner never produced fuch a letter to me, or to any other perfon in my prefence.

Q. How long have you known Mr. Hardy, and what is his character?

A. I have known him twenty years; I never heard any otherwife than that he was an orderly, quiet, peaceable man, and a good friend and a good neighbour, for any thing I ever heard.

Q. Is that his general character?

A. I always underftood it was fo.

Mr.

Mr. Law cross-examined the evidence.

Q. What are you?

A. An independent man; I employ my property sometimes in the Stocks, sometimes in purchasing lands, &c. as it best suits me. A relative, named Hunter, introduced me into the society.

Q. Was you at the meeting the 2d of May, when Mr. Wharton was in the chair?

A. No. I never attended any meeting of the Constitutional Society.

Q. Was you at the anniversary dinner at the Globe Tavern?

A. Yes, I was.

Q. Was you at the meeting at Chalk Farm?

A. Yes.

Q. Then you are acquainted with the resolutions entered into at those meetings?

A. I am not. I heard them read, but I did not attend to them.

Q. Why?

A. I have an habitual inattentiveness about me, and always had.

Q. Where did you go after the meeting at Chalk Farm?

A. I went with Mr. Lovett, the Chairman, and other members, to No. 3, in Compton-street, Soho, where we all supped.

Q. Have you ever seen the prisoner produce a letter from Sheffield, respecting pikes?

A. No, I never have.

Q. Did you hear any songs sung at any of the dinners?

A. Yes, several.

Q. Of what tendency were they; were they seditious?

A. I do not recollect any thing about them.

Q. You state yourself to be a man of property; pray was you ever in business?

A. Yes.

Q. What was it?

A. I cannot now exactly recollect.

Q. Try.—Upon the question being repeatedly put, the prisoner said he was a perfumer and hair-dresser, about twelve years ago.

Alexander Fraser, examined by Mr. Gibbs.

Q. What are you, Sir?

A. A taylor. I became a member of the Corresponding Society in April 1793.

Q. While

Q. While you was a member, what were the views of the ſociety?

A. Our only object, at leaſt as it appeared to me, was to obtain a Reform in the Houſe of Commons, by a full and fair repreſentation of the people of Great Britain in that Houſe.

Q. Did you at any time collect from the members that they entertained a project to effect a Reform by force of arms?

A. No, by no means whatever.

Q. How long have you known the priſoner; and what is his character?

A. I have known him many years, and I neither know nor ever heard but that his character was unblemiſhed, both as a tradeſman and a moral man.

Here were a few croſs queſtions put, of no importance.

Thus far the evidence went to eſtabliſh the views of the Society, and to wipe away any impreſſion which might have been made on the charge of any deſign to attack the King or Conſtitution.

The next head conſiſted of evidence to the priſoner's character.

William Barkley.

Q. What are you?

A. I am a ſhoemaker.

Q. Do you know the priſoner at the bar, and what is his character?

A. I have known him thirty years. He lived as foreman with me ſeven years; he has quitted me about three years. He was a faithful ſervant, and, as a man, I know him to be peaceable, quiet, and orderly.

Q. Are you a member?

A. No, I was never admitted into any political ſociety.

The Rev. Mr. Oliver, a Diſſenting Miniſter. I have known Mr. Hardy three or four years, during which time I have been intimate with him.

Q. Did you ever hear him ſpeak about the ſocieties to effect a parliamentary reform? A. I have ſeveral times heard him ſay, when the ſociety has been the topic of diſcourſe, that their object was to obtain a reform in a peaceable and legal way, upon the plan laid down by the Duke of Richmond and Mr. Pitt in the year 1782. I have ſeen the priſoner in his own houſe ſince the report of the committee was made to the Houſe of Commons.

"Lord President. I desire the witness will recollect himself. "I beg your lordship's pardon, I feel myself in an error, but I assure his lordship that it was not an intentional error."

Lord President. I apprehend not. Go on. "I believe it was in May or June when I saw him last; and he then in a conversation avowed the same views and principles, from which he had at no time varied in the course of many other conversations."

Q. Are you a member of the Corresponding or the Constitutional Society?

A. No, I have divine service to perform, and four sermons to deliver every Lord's day; I therefore cannot dedicate any time to study politics.

Q. What is the character of the prisoner?

A. I really and conscientiously believe that he is a man who fears God, honours the King, loves his fellow-creatures.

Daniel Steward, secretary to the committee of the Friends of the People, examined by Mr. Gibbs.

Q. Do you know the prisoner Hardy?

A. Yes. I have seen him several years since, but never conversed with him until December 1792, which was in consequence of a letter sent by him to the society of the Friends of the People, to which I wrote an answer, under the directions of the committee, and carried it to the prisoner's house. From that time there arose an intimacy, and I used to call upon him three or four times in a week, and scarcely ever less than twice.

Q. What was your conversation respecting a reform?

A. Whenever we conversed, the prisoner always said, that the object was solely to reform the representation in the House of Commons. For that purpose he continued to inform the people at large of the bad state of representation, under the hopes of obtaining their signatures to petitions which were to be presented to each branch of the legislature, in order to obtain redress.

Q. Did you ever hear him say that it was his intention, or that of any other person, to obtain this reform by force?

A. Never; and from the implicit confidence he placed in me, I think it is hardly possible but I must have known it if such had really been the case.

Q. Did you agree to the same plan with the prisoner?

A. No, we differed widely in our opinion, not on the necessity of bringing the measure about, but on the mode of effecting it. Hardy insisted that the Duke of Richmond's plan was the best, and that any thing short of that would be of no avail, as it would not be a radical cure for the corrup-

tion which had, from time to time, crept into the representation of the people; whereas, my opinion was contrary, as I thought that universal suffrage would be too extensive, and that an annual election was too short a period. I rather inclined to the Constitution established at the Revolution in 1788, with an extension to all taxable people who bore the burthens of the state.

Q. What is his character?

A. A harmless peaceable man, of sober conversation, amiable manners, and good morals.

John Carr, a very respectable schoolmaster. I have known the prisoner twenty years; he has always been a man of a remarkably peaceable disposition, and of the best character.

Three other witnesses gave the same kind of testimony.

John Stevenson, a coal-merchant. I have known him nine years; he was always peaceable, and as a moral man I do not know his superior.

Peter Macbean, a shoemaker. I have known the prisoner seventeen years, and he has always bore an amiable character, both civil and religious.

Cross-examined by Mr. Garrow.

Q. Are you a member of the Corresponding Society?

A. Yes, and was a member at it's first institution. I continued to be a member for two years, and used to attend the Division No 8.

Q. Did you not subscribe for Mr. Paine's works?

A. No.

Q. Did the Division which you belonged to enter into a subscription for those works?

A. Not that I know of.

Q. Recollect. Did you never hear so?

A. No, I cannot charge my memory with any such circumstance.

Q. You say that you was one of the first members; where was it then held?

A. In Exeter Street.

Q. How many members had you, and who was in the chair?

A. Margarot was in the chair at the meeting which I attended; and I believe there were thirty or forty members present.

Q. Who drew up the original laws of the society?

A. I am not certain whether it was Mr. Margarot, or whether they were settled in a committee.

Alexander Gordon, a cordwainer. I have known the prisoner twenty years, during which time he has borne an excellent character for peaceable behaviour, honesty and industry.

John Boak, cabinet-maker.—I have known him ten years. He was, during that time, a peaceable, quiet honest man.

Cross-examined by Mr. Bower.

Q. Was you a member of the society?

A. Yes; but I have quitted two years.

Mathew Dickey—I have known the prisoner five years, and have always understood him to bear an excellent character, particularly peaceably and orderly.

Mr. Gibbs—My Lord, we have not gone through half of the evidence for the prisoner; and as my learned friend, Mr. Erskine, has by his great exertions endured such fatigue, I trust the Court will indulge us with an adjournment.

Lord President. The Court is very desirous to make all the progress possible. This seems to be a duty both with respect to the Jury and the prisoner. I therefore hoped and expected that the evidence to character might have been finished to-night, that the Attorney General might reply on Monday.

Mr. Erskine. If your Lordship should direct that we shall proceed, I apprehend that we shall enter into evidence which may be objected to. In that case, in my present exhausted state, I cannot possibly take that active part which may be necessary to support the evidence which I mean to bring forward. I therefore rely upon the candour of the Attorney General, and the indulgence of the Court to adjourn.

Sir John Scott gave his assent.

The Court at one o'clock yesterday morning adjourned to this morning at seven.

After the adjournment, a mistaken person ran down to the gate, and called out, "An acquittal, an acquittal," upon which a numerous assemblage of people, assembled in the Old Bailey, burst into a loud huzza!

The court was struck very much; the avenues were cleared, and the people were quickly undeceived. In about three minutes, a still louder huzza was repeated, several times. The sheriffs were directed to enquire into the cause, and upon their return reported that Mr. Erskine had that moment entered into his carriage, and the populace had welcomed him with their gratulations.

Mr. Sheridan and Mr. Grey were likewiſe applauded. The populace proceeded to take out the horſes from Mr. Erſkine's carriage. He remonſtrated with, and earneſtly deſired them to deſiſt, but in vain, for they effected their purpoſe, and drew him in his carriage to Serjeant's-Inn, with continued ſhouts of triumph. When he alighted, he addreſſed the great body of people, deſiring them to be peaceable and to return to their homes; not doubting but the laws of their country would protect innocence, and diſpenſe equal juſtice to every man. The populace gave him three cheers, and departed quietly.

SIXTH DAY.

MONDAY, NOVEMBER 3.

The Court ſat at half paſt eight in the morning, and proceeded on the evidence for the priſoner.

Mr. Erſkine ſtated, that he meant to call a witneſs to prove, that a letter, which had been given in evidence on the part of the proſecution, written by one Davidſon, who had reſided at Sheffield, to the Secretary of the Norwich Patriotic Societies, and encloſed in another which was ſent to Hardy, was found in Hardy's poſſeſſion, unopened, at the time he was taken into cuſtody.

That ſuch was accordingly proved; and Chief Juſtice Eyre obſerved, that Hardy had no right to open the letter that was encloſed for the Secretary at Norwich; but what conſtituted the weight of the proof in favour of Hardy was, that he had not ſent that letter to Norwich.

David Martin ſaid, he was an engraver, and lived at Sheffield. He had reſided there about twelve years, and carried on trade. He had become a member of the Sheffield Society within three months of it's commencement, and had continued to be a member till the time that Camage and others had been taken up by Government. He ſaid, his object was to obtain a reform in the Commons Houſe of Parliament, by legal and conſtitutional means; and from all that he obſerved, heard, and ſaw, in the courſe of his attendance on that ſociety, he had no reaſon to ſuppoſe their views were different from his. He had not the moſt diſtant idea that the ſociety meant to attack the Government by an armed force. He was a member at the time that they ſent a delegate to the Convention that

that assembled in Edinburgh. The object of the Sheffield society, in sending their delegate was, in order to co-operate with the other delegates from the different societies, to produce the end he had already mentioned, namely, a Reform in Parliament. After the petition, signed by a few individuals, for a Parliamentary Reform, which had been presented by Mr. Grey, had been rejected, they thought the general sentiments of the people, as far as they could be collected, would make an impression on the House, and induce them in their justice to grant the prayer of the petition. If he had imagined that those gentlemen, who had been delegated from different societies, had been to constitute a Convention at Edinburgh, for the purpose of devising the means by which the Parliament should be forced to grant a parliamentary Reform, he should not have continued a member of the society. He did not think it was the intention of the society to affect the King in his person, his state, rule, or government, in this kingdom. There was no intention to touch the House of Lords. He was at Castlehill when Mr. Yorke made a speech there.

On his cross-examination, he said, the persons who principally managed the business of the society were a committee. He knew a person of the name of Gales. He said, he (the witness) was an associated member of the London Constitutional Society, in March 1792. He knew the proceedings of the British Convention, which was held at Edinburgh, as they appeared in the Gazetteer. He did not altogether approve of the proceedings of the Convention, particularly that part relating to a secret committee. They had no secret Committee at Sheffield. He did not hear that a resolution had been voted at Castle-hill, not to petition the House of Commons. There was a great number of people assembled there, and he stood at the outside of them, and did not hear it; but, if he had heard it, he might perhaps have approved of it. He knew Mr. Yorke. He believed he was not a Sheffield man, but he did not know what brought him to Sheffield. He had frequently heard him, both in public and in private, though he could not say he was very intimate with him, or that he entertained exactly the same opinions on Parliamentary Reform. He could not recollect the specific differences between him and Mr. Yorke. He said he did not know who was the editor of the Patriot, though he had heard that it was Mr. Campbell Brown, their delegate to the Scottish Convention. He thought Mr. Brown was a peaceable, well-disposed man. Letters had occasionally passed between their Society and the Society of Stockport, and he believed they were associated for the same peaceable purposes with themselves.

ſelves. He knew that a motion was made on Caſtle-hill, to addreſs the Houſe of Commons; but he did not know it was made, by contrivance, to be negatived.

On re-examination, he ſaid, that whatever Mr. Campbell might do, while he attended the Britiſh Convention at Edinburgh, the ſociety gave him no power to act but by legal and conſtitutional means. He for one would not have conſented to ſend him to Edinburgh, if he had conceived that he would have tranſgreſſed the bounds of the law. The proceedings at Caſtle-hill, and Mr. Yorke's ſpeech were publiſhed, and the witneſs ſaid he had read the ſpeech after it was publiſhed.

Edward Oakes Examined.

He had been a member of the Correſponding Society of Sheffield ſince the year 1791. Their object was Parliamentary Reform by peaceable means, and no other; and it was with this view that they ſent delegates to Scotland. They had no deſign whatever againſt the King, or the government of the Country. They had no idea of attacking it, and this he ſwore with a very ſolemn degree of earneſtneſs. He never heard of any propoſition for making pikes till they had been threatened and attacked by the oppoſite party, and complaints made of it in the ſociety. Being aſked what he meant by the oppoſite party? He ſaid ſome individuals in the town, and not the Government or magiſtrates.

Croſs Examined.

He did not know that the Sheffield Society was aſſociated with that of London. Was preſent when they reſolved not to petition Parliament any more, finding their former petitions had been rejected; but believes it was their intention to petition his Majeſty. He did not know of the letter of the 14th of March 1792, reſpecting the Rights of Man, though he had entered the ſociety in the year 1791. But to account for this, he ſaid, that they entruſted the management of a great part of their affairs to their committee, who were not accuſtomed to read all their proceedings to the ſociety at large.

[At this time one of the Sheriffs obſerving, or thinking that he obſerved ſome noiſe in the Students' gallery, called to tell them, that if they did not pay more attention to the Court, he would *turn them all out*. He ſaid he had his eyes upon them for ſome time.]

The Lord Preſident. "Gentlemen, this is not the firſt time that this has been remarked to me; and I expect from you an example to be ſhewn of good behaviour to others. If you do otherwiſe,

otherwise, you will disgrace yourselves, and greatly insult the Court.

The witness then read aloud the letter which was handed to him, mentioning their forming a correspondence with the London Constitutional Society, and also the letter from Hardy, which advises their distributing themselves into small divisions for the more convenient propagation of their principles. He never heard this letter communicated to the society, but cannot say that it had not been communicated, as he did not regularly attend at their meetings. Does not know Brown the delegate to the British Convention, and editor of the Patriot; but read several extracts from that publication, as inserted in the Sheffield Register.

He then read the resolutions of the Sheffield Society, offering thanks to Paine for his book of the Rights of Man, which he said, were circulated by them through the town and its neighbourhood; but that was *before* the work had been declared to be a libel. He was asked, what was the usual number of the society? He said it amounted to some hundreds. Why then did they say in some of their publications, that their numbers exceeded 2,000? He said that mistake might easily be committed, as many persons attended the meetings who were not regularly admitted members. What were they to have done if Government attacked them? They would have submitted.

Daniel Stuart examined.

This witness who had been examined before, now produced a letter signed, *Aston*, Sheffield, 14th May, 1792. The Society of the Friends of the People had on the 26th of April published their declaration, and this letter from Aston, President of the Sheffield Society, contained a full approbation of it, and expressions of attachment to the Constitution; and proposed that the different Societies should send deputies to London to co-operate in obtaining a Parliamentary Reform. To this the Friends of the People returned a civil answer, encouraging them to proceed in the same principles of moderation, observing that Liberty was in little danger from its open and avowed enemies, but may suffer much from the indiscretion of its friends, which their dexterous opponents were careful to avail themselves of, &c. To this they had a reply from Mr. Aston, greatly approving of the answer he had received.

Mr. Erskine then read the declaration of the Friends of the People, which appeared at the time in all the newspapers, and observed that the Jury must perceive by the signatures

annexed

annexed to it, that the subscribers, though they may possibly be deceived, could have no designs against the Constitution. He then read over the names of those Noblemen, Members of Parliament, and other Gentlemen, who signed the Declaration; and produced a smile in the Court, by the vivacity with which, on coming to the name of the Hon. Thomas Erskine, M. P. he said, "meaning me Gentlemen."

Mr. Stuart was then cross-examined by the Attorney General. He said, that on the 24th of May, he took the letter in answer to that of Aston to Mr. Gray, at the House of Commons, to be signed by him as chairman, and sent it off by the post that evening. What was Mr. Aston? A tanner. Was it of his own fancy that he addressed him by the title of Esq.? No, it was at the desire of the Committee. Did the Committee know Aston's situation in life? He believed not at that time. Did he not hear of Aston's letter of the 26th of May to the Constitutional Society in London, denouncing the moderation of the Friends of the People? No.

It was then observed, that as a letter takes two days in its way to Sheffield by the post, this letter to the Constitutional Society of the 24th of May must have been written on the same day on which he received the letter of the Friends of the People, dated 24th of the same month.

Did he know that the society of Sheffield had twelve members associated to the Constitutional Society of London? He did not.

A very respectable list of names had been read, subscribers to the declaration of the Friends of the People. How many of these had since left that Society? About a dozen. Were not some of that society members also of the Constitutional Society? Some of them were then mentioned, and amongst others, we think, Lord John Russel, Mr. Dudley North, Mr. Curwen, Dr. Towers, Mr. Cartwright, Mr. Thompson, Mr. Wharton, &c.

How long has Mr. Wharton been a member of your society? He belonged to it before I had any connection with it.

Do you not usually inquire into the description of people before you direct letters to them? We do.

Was Lord Daer a member of your society? He is.

Did you not know that he was a delegate to the Scotch Convention? Yes.

Does he still remain a member? He does.

Mr. Erskine. Lord Dare, one of the sons of Lord Selkirk, was known to be a delegate to the British Convention, and no motion has in consequence been made to expel him from the society. Is not that so, Mr. Stuart? It is.

The Attorney General preſſing the witneſs with reſpect to the inconſiſtency of Aſton ſending letters of ſo different a complexion to the Friends of the People and the Society for Conſtitutional Information, apparently on the ſame day,

Mr. Erſkine, in order to conclude an examination which appeared to him more tedious than intereſting, aſked Mr. Stuart, if he ever knew of a man changing from a monarchy-man to a republican in the interval of one poſt?

The Attorney-General ſaid, that he had better aſk him if he knew a man change from a reformer to a traitor in the ſame poſt?

The Lord Preſident expreſſing his diſapprobation of this kind of retort, the examination of Mr. Stuart was for the preſent cloſed.

Mr. Erſkine expreſſed his aſtoniſhment, that his client ſhould be debarred the benefit of evidence of this nature, which had never been withheld on any former occaſion. One inſtance only excepted, the ſtate trials did not furniſh a precedent; and when he ſtated that the execrable Jeffries ſat in judgment on that occaſion, it would be ſuperfluous to aſſign any further reaſons. The meaſure of juſtice ought to be *the ſame in all countries, and to all perſons.*

He ſaid that for ſome days paſt he ſaw an oppoſition brewing which was likely to bring on a debate, owing in a great degree to the ſingular anomaly of the caſe. He then went into arguments on the analogies of evidence. The Judges in the Court of King's Bench, on the argument in the caſe of Holt, determined that a publication in the year 1760 was no defence for a ſimilar publication in the year 1794. This, however, as a fact was charged, did not bear upon the preſent caſe. Hardy's accuſation was not grounded on any fact, but upon a criminal and treaſonable intention of the mind. He had therefore a right to call evidence to his opinions and intentions.

The crime of Lord George Gordon reſted principally upon his intention, and though the proſecution was conducted by lawyers of great experience and ability, they ſuffered him (Mr. Erſkine) to call nine or ten witneſſes in, on the ſubject of the diſpoſition of his mind.

The next caſe he cited was that of Lord Ruſſel, accuſed of compaſſing the King's death, being ſuffered to give the evidence of Dr. Barnet in favour of his affection to the government.

Foreſeeing an oppoſition on this ground, little time as he had for ſtudy, he took care to be prepared upon this ſubject with caſes from the ſtate trials, where the accuſed were

admitted

admitted to build upon the minds of the Court and the Jury an intrinsic probability to operate in the way of character. This, however, was not character, though it would carry a greater conviction. For instance, if a man was accused on the oaths of nine or ten credible witnesses of stealing a horse, his character would not acquit him, because it was more probable that a man of good general character may steal a horse, than that ten honest men should falsely accuse him of it. Character was the slow wide-spreading circle of opinion, produced by a man's general demeanor: for which reason a witness to character was not asked, What does this man? or, What does that man say of him? But, from *all* you know, what is your opinion of him?

Henry Cornish, in the reign of James II. accused of compassing the King's death, was suffered to give evidence of his loyalty.

John Austen, in the 2d of William and Mary, was accused of endeavouring to introduce popery, and was tried before Judge Holt; and that great lawyer did not oppose his giving evidence to shew his attachment to the protestant religion.

Sir John Frend was accused of compassing the life of the Sovereign, and was allowed to give evidence to shew that he expressed his desire of living peaceably under the government, which, however, he did not like.

In all these cases it was apparent that general character had nothing to do in these testimonies; the character in such situations which will operate as evidence must be analogous to the offence.

In the 8th of William and Mary we find Cook admitted to give similar evidence on a similar charge.

Donelly, a waterman, belonging to Queen Anne, was found in the act of pulling down meeting-houses, which by the statute is made constructive treason, and evidence was admitted of his conversation, to prove him friendly to government. He therefore asked no more now for Hardy, than what was granted to others in similar situations before him; and even without this, he may stand upon the rules of evidence.

Mr. Gibbs said, it was laid down by Lord Hales, that an action in itself indifferent, may, by attending circumstances, be converted into an overt act of treason; and when the Crown had an opportunity of ransacking the whole of a man's life and conversation, he should at least have the means of rebutting that evidence by other evidence of his former conversation.

The Attorney General replied to the arguments of the prisoner's Counsel. He said, that in the case of Holt, alluded to by Mr. Erskine, a new trial had been moved for by him, on the ground that Mr. Justice Wilson had refused to the Jury evidence which ought to have been adduced. Had any one heard the learned gentleman that day, he might have left the Court with an opinion unfavourable to the reputation of Courts of Justice. He hoped that, in the course of a trial affecting the life of the prisoner at the bar, and the life of every man in the country, the learned Counsel would decline making any observations on the difference between a poor shoemaker and a person of rank and fortune; or, if he would not decline them, he trusted he would have the goodness to state where, in the course of the present trial, he had seen any severe or improper conduct on the part of the prosecution. The law of England, like the care of Providence, protected alike the high and the low, the rich and the poor; and he consented that he might, from this moment, be considered a degraded and infamous man, if at any time, during the course of the prosecution, he should act, with respect to the prisoner at the bar, in any other manner than the law authorised. If he could be guilty of such a crime, he would merit the reproach and execrations of every good man, nay, he should deserve that death which the prisoner at the bar would most undoubtedly suffer, provided he was convicted.

When the declarations of Mr. Tooke, in the Constitutional Society, had been received in evidence, it was because what he had said there related to the business of the society directly, to the transactions in which both the Societies were concerned. In the case of Lord George Gordon, his declarations were facts, and therefore they had been received in evidence. Any thing that Mr. Hardy had said in any of the societies, or any where else, respecting the concerns of the Societies, might be heard; but here was a gentleman (Mr. Daniel Stuart) who did not belong to any of the societies, and who only heard the sentiments of Mr. Hardy in private conversation. Such evidence could not be received. If it could be received in favour of the prisoner, it must also by the rule of law, be received against him; and though, in the case of the prisoner at the bar, no further evidence could be given on the part of the Crown, it should be considered what this principle might lead to: he should consider it his duty to bring that species of evidence for the Crown, in any prosecution that he might have occasion to conduct.

The

The Solicitor General ſaid a few words. In alluſion to one of the caſes quoted by Mr. Erſkine, he denied ſome points which that gentleman had aſſerted. Mr. Solicitor ſaid he ſuppoſed he had not underſtood it.

Mr. Erſkine. You certainly did not underſtand it.

This obſervation, made in a particular tone of voice, nettled Mr. Solicitor. He aſſerted he knew his duty in the civil and criminal law of the country as well as the learned gentleman did, and he was as determined to perform it. He then offered a few arguments againſt the admiſſibility of Mr. Stuart's evidence.

Mr. Erſkine agreed with and ſubmitted to the deciſion of the Court. He noticed the improper warmth of the Solicitor General, to whom he would have been the firſt to make a proper ſatisfaction if he had given offence. From the language that was ſometimes made uſe of, even between himſelf and his learned friend, who were on terms of the moſt perfect intimacy and friendſhip, it might be ſeen how little confidence there was to be placed in words ſpoken in heat, whether they were uttered in a Court of Juſtice, or a diviſion of the London Correſponding Society, by Mr. Yorke or Mr. Solicitor General.

The Preſident of the Commiſſion interrupted Mr. Erſkine. He mentioned the ſituation of the Jury, who were ſuffering by every moment's unneceſſary delay.

Mr. Stuart was then aſked, by permiſſion of the Court, whether Mr. Hardy ever mentioned to him the plan of reform he meant to purſue?

Mr. Stuart ſaid, he had always adhered ſtrictly and ſtrongly to the plan propoſed by the Duke of Richmond.

Q. Have you had frequent opportunities of converſing with the priſoner?

A. Very frequent. I never was very much in public company with him; he ſupped with me one night along with another gentleman; we had a long converſation on the ſubject of parliamentary reform, and the only point on which we differed was the propriety of univerſal ſuffrage.

Q. What is your opinion of the priſoner's character for ſincerity and truth?

A. I always thought him to be a civil, honeſt, good man.

Mr. Ferguſon and Mr. Andrew Stirling were next called, to prove the tranſactions that took place at a meeting held in Scotland, for the reform of the Scotch boroughs. This evidence was objected to by one of the Crown lawyers.

The Attorney General had no objection to conſent that it might be read.

The

The President. But the Court has an objection to it. The transactions to which these gentlemen are called to speak have no manner of connection with the facts alledged against the prisoner at the bar. Evidence relative to the Irish associations had been received, because the witnesses had spoken with regard to them, and sworn that the reform they intended was the same with that proposed by the Duke of Richmond.

William Towsnap said he was a member of the Society at Sheffield, very nearly from the first to the last; the only object they had in view, was a reform in the House of Commons; and the way they intended to bring it about was by petition. They proceeded on the plan of the Duke of Richmond; that was the idea that he formed of the business; he had no idea that the object of the society was different from his own; from the knowledge he had of the society, he believed they had the same ends in view that he had, that he solemnly believed to be the general object of their society. If he had the least idea that they intended to subvert the authority of Government, he should not have belonged to them, or if he discovered it since he became a member, he would have withdrawn himself. He always understood from what was said in their society, that delegates were chosen in order to inform the minds of the people, and to draw up such papers to be presented to Government as they thought the most conducive to bring about a Reform in Parliament; Mr. Brown, their delegate, had no other authority. He said with regard to the party who opposed them at Sheffield, he saw people assemble together, and heard them threaten to assault and insult the society; and he heard of an inflammatory letter by one Russel. With regard to the pikes, he said he was almost an entire stranger to that business; if it had been the object of the society to provide arms, he must have heard of it, for he was in the committee, and it was a question never agitated in the committee, to provide arms against the Government; he never heard of such a thing, either before or since. He had no idea, for his own part, of any thing but a reform in the Commons House of Parliament, and he really thought and hoped that was the view of the society. They had the object of the Duke of Richmond in view, and that was stated from time to time in the society, and a number of his letters to Colonel Sharman had been distributed among them for the sole purpose of informing the society itself of the principles on which they went, and they appeared to him to adhere to the object strictly.

On

On his cross-examination he said, he had continued in the society for two or three years. That it was their object all along to petition. That he was at Castle-hill, at Sheffield, at the time of the meeting there; the proposition for a petition to Parliament was negatived; there was a very large concourse of people, but he could not say exactly what was done, for he could not get near enough to hear what was going forward; he might see an account of the proceedings afterwards in Gale's paper, he believed the question for petitioning Parliament again was carried in the negative; he did not hear any voice in the affirmative, and he had not heard of a single individual who had withdrawn himself, in consequence of the negative to petitioning Parliament. He had some recollection that the proceedings of the Convention were approved of by their Society. He did not know that the question at Castle-hill was put for the purpose of being negatived; that was a matter which he could not speak of. After that proposition was negatived, it was said to be intended to petition his Majesty. With regard to Mr. Yorke, he said he had seen him at Sheffield, but never spoke to him; he did not know of any pikes being prepared under the direction of Yorke. He said he had heard that Davidson had written a letter to Hardy after he had been taken up. He had heard of those defending themselves against what they called the opposition party.

Being examined again by Mr. Erskine, he said if there had been a proposition for arming he must have heard of it; there could not be any proposition of that kind; he must have known it if they had any idea of arming; they must have had a great number indeed of them. The petition that was negatived at the meeting at Castle-hill, was the petition of the people of Sheffield. They never negatived the idea of presenting a petition to Parliament, that might be agreed on by the delegates of the Convention.

Edward Smith, cutler, in Sheffield, said he was a member of the society ever since the year 1791, up to the time when this business happened; the object of the society was to obtain a Parliamentary reform upon the plan of the Duke of Richmond and Mr. Pitt. They had perused the Duke of Richmond's letter to Colonel Sharman, and that contained their object for every thing. When they talked of the Rights of Man, he understood equal representation in Parliament; they did not mean any thing about France. If other people's object had been different from his, and he had known it, he would not have been in the society a single day. He never heard it in the society as a thing intended to attack the King or any of his prerogatives, but much the other way. They never wanted to

touch

touch the Crown. Their objects were the glorious advantages we obtained in 1688; but he never heard that their object was to be accomplished by force. He never heard of arms until a paper was thrown out in the streets, and what was published in the Courant, calling upon the people of Sheffield to destroy those whose opinions were different from themselves; it was that which produced the arms among some of the society. The party who opposed the society, when any good news arrived from the Continent, came out and fired pistols in the street, and one of them fired at his window; the society did not assemble to damp their joy, or ever give them any offence of any kind; notwithstanding all this the society never regularly armed; if they had wished it they might have had 10,000 pikes in one day. They never had any idea but that of pursuing their means by peaceable and orderly proceedings, according to the law of the land. He did not exactly know what some men might mean by calling him a Democrat, but he understood that it meant a person who wanted to overturn the House of Commons. They never had any idea of touching their Sovereign in any shape.

Cross-examined.

Mr. Garrow in the cross-examination availed himself much of the deplorable ignorance of this old man. Though he had no musket or pike for his own defence, he applied to no magistrate for protection against the threats and ill usage of his persecutors, nor did he make any application to that effect to the Secretary of State. He acknowledged, though rather reluctantly, that his society had distributed hand-bills, exhorting the people in the same words as those of the other bill of which he complained, to arm for the protection of their property. Of the plan about which he was so sanguine an advocate, he appeared to have very little conception. The Duke of Richmond's plan, he said, was a free representation, and Mr. Pitt's plan was, "that every man should have his voice." Being asked if he had not a cheap edition of Tom Paine's book of the Rights of Man? Aye! said he, and I have seen the other too. You of course thought it a very excellent book? Aye, that I did. I liked it very well. Were there not many thousands of that work circulated amongst the cutlers by a subscription of the Society? That and some few other books were circulated by subscription. This subscription was only amongst a few friends.

The Counsel then read the passage against heritable thrones, where the people were represented as flocks and herds, and asked

asked the witness if that was a passage very favourable to Kings? He answered, that he believed Paine was no great friend to Kings, but that neither he nor his Society ever minded these passages about Kings: All they wished was a Parliamentary Reform. Several other passages were read, to which the answers were so stupid, that we shall not tire our readers with them.

He was at the Meeting at Castle-hill: did not know that the motion for petitioning Parliament was only put that it may be negatived; the question was carried by a shew of hands: did not know that the motion was seconded, or that any other hand was held up for it but that of the persons who made it. He was also at the celebration of the Fast Day, and never heard that his Society had sent any Address to France. These witnesses having so frequently repeated, that their object was a Reform in Parliament, according to the Duke of Richmond's plan, Mr. Erskine thought it would be proper to give that plan in evidence, and the next witness called was

His Grace the Duke of Richmond,

Mr. Erskine handing him a copy of the letter to Colonel Sharman, "Will your Grace do me the honour to state whether that be a copy of the letter which you addressed to Mr. Sharman in the year 1780?"

Duke of Richmond. "It is extremely difficult for me to tell whether the paper now put into my hand is the same as the letter I wrote to Mr. Sharman or not. I know that there was a mutilated edition of it published at the time."

Mr. Erskine. "Will your Grace have the goodness to look over it, and ascertain whether it be a genuine copy or not."

The Duke proceeding to look over it, the Lord President asked, whether he would wish to retire while he read it in another room.

The Duke said, "I believe I may spare Mr. Erskine some trouble, by giving him a correct copy which I have brought in my pocket."

This was immediately agreed to, and the letter to Colonel Sharman, which had been in Court, was read by the Clerk of the Arraigns, while Mr. Garrow and others looked over the Duke's copy, both of which exactly agreed.

His Grace then ascertained that to be the letter which he addressed to Colonel Sharman.

Mr. Erskine wishing Colonel Sharman's letter to be read, asked the Duke of Richmond whether that letter was not written in answer to one from Colonel Sharman after the resolutions

 taken

taken by the Irish Volunteers, assembled at Lisburne? And whether Colonel Sharman's letter and his were not bound up and published together?

The Duke replied, that he wrote the letter in answer to one from Colonel Sharman, and they were bound together in the same manner in which they now appeared.

The Attorney-General objected to reading Colonel Sharman's letter, as the Duke of Richmond's only was referred to in the evidence before the Court.

Mr. Erskine said he was ready to argue that point, but as it was not very material, he would neither exhaust his strength, of which he retained but very little, nor occupy unnecessarily the time of the Court.

After the Duke of Richmond's letter was read, Mr. Erskine offered a piece of evidence on the part of the prisoner, which was opposed by the Attorney-General. Mr. Erskine wished to produce witnesses to prove what they had heard the prisoner at the bar declare in conversation, with respect to a Reform of Parliament, and what his sentiments were with regard to a Convention of the people, &c. After a very learned argument, Mr. Erskine and Mr. Gibbs on the one hand, and the Attorney-General and Solicitor General on the other.

Chief Justice Eyre said, the Court went a certain way with Mr. Erskine. Nothing was so clear as that all declarations that applied to the facts of the case, were evidence against the prisoner, though not evidence for him. It was presumed that no man would declare any thing against himself that was not true. That was the general rule; but if the question here was as his Lordship thought it was, what were the political speculative opinions which the prisoner at the bar entertained touching a Reform of Parliament; his Lordship was of opinion that that might very well be learned and discovered by the conversations which he had held at any time, or at any place. If his declarations were meant to apply to a disavowal of the particular charge made against him, as for instance, if he had said to some friend, when there was a plan for holding a Convention, that it did not mean to affect the King and the Government, such a declaration could not be given in evidence in favour of the prisoner, though it would be evidence against him, because it was supposed he would not have made such a declaration unless it were true.

Of the Duke of Richmond's excellent composition, the following extracts are most important with respect to the prisoner's defence:

"SIR,

« *SIR,*

« *I have been honoured with a letter from Belfast, dated the 19th July last, written in the name of the Committee of Correspondence, appointed by the delegates of forty-five volunteer corps, assembled at Lisburn, on the 1st of the same month, for taking preparatory steps to forward their intention on the subject of a more equal Representation of the People in Parliament, and signed by their secretary, Henry Joy, jun. Esq.*

« *In this letter, after shewing the corrupt state of the boroughs in Ireland, the general opinion of the people that the constitution can be restored to its ancient purity and vigour by no other means than a Parliamentary Reform, and informing me of the steps which have been taken, and are taking by the volunteers, in determining to procure this desirable object, the committee is pleased to request my sentiments and advice as to the best, most eligible, and most practicable mode of destroying, restraining, or counteracting this hydra of corruption, borough influence, in order to lay my opinion before the Provincial Assembly of Delegates, which is to be held at Dungannon, on the 8th of September next.*

« *The subject of a Parliamentary Reform is that which of all others, in my opinion, most deserves the attention of the public, as I conceive it would include every other advantage which a nation can wish; and I have no hesitation in saying, that from every consideration which I have been able to give to this great question, that for many years has occupied my mind, and from every day's experience, to the present hour, I am more and more convinced, that the restoring the right of voting universally to every man, not incapacitated by nature for want of reason, or by law for the commission of crimes, together with annual elections, is the only reform that can be effectual and permanent. I am further convinced, that it is the only reform that is practicable.*

« *All other plans that are of a palliative nature have been found insufficient to interest and animate the great body of the people, from whose earnestness alone any reform can be expected. A long exclusion from any share in the legislature of their country has rendered the great mass of the people indifferent whether the monopoly that subsists continues in the hands of a more or less extended company; or whether it is divided by them into shares of somewhat more or less just proportions. The public feels itself unconcerned in these contests, except as to the oppressions it endures, and the exactions it suffers, which it knows it must continue so long as the people remain deprived of all controul over their representatives.*

"*The lesser reform has been attempted with every possible advantage in its favour; not only from the zealous support of the advocates for a more effectual one, but from the assistance of men of great weight, both in and out of power. But with all these temperaments and helps it has failed. Not one proselyte has been gained from corruption, nor has the least ray of hope been held out from any quarter, that the House of Commons was inclined to adopt any other mode of reform. The weight of corruption has crushed this more gentle, as it would have defeated any more efficacious plan in the same circumstances. From that quarter therefore, I have nothing to hope. It is from the people at large that I expect any good. And I am convinced that the only way to make them feel that they are really concerned in the business is to contend for their full, clear, and indisputable Rights of Universal Representation. The more extensive plan, at the same time that its operation is more complete, depends on a more effectual support, that of the people.*

"*I am also persuaded that if the scheme for additional county members had proceeded any further, infinite difficulties would have arisen in adjusting it. Neither the Yorkshire Committee nor Mr. Pitt have given the detail of their plan. A just repartition would have been a most intricate task, for where different interests are separately represented, the proportion is not very easy to ascertain. The doubt you state concerning this mode of reform appears to me well founded; a few great families might divide a county between them, and chuse the members by a house-list, like East-India Directors. Another difficulty, from the increase of the number of members, which might render the house more tumultuous than deliberate, has its weight. But the greatest objection, in my opinion, to this and to every other narrow and contracted plan of reform is, that it proceeds upon the same bad principle as the abuse it pretends to rectify; it is still partial and unequal; a vast majority of the community is still left unrepresented; and its most essential concerns, life, liberty, and property, continue in the absolute disposal of those whom they do not chuse, and over whom they have no controul. In the arrangement of plans of this kind there is no leading principle to determine that the addition ought to be one hundred and fifty, or two hundred; that the allotment should be according to the population, property, or taxes paid in each county; that any supposed proportion between the landed and trading interest is the just one, and that the division of County and City members will coresrpond with this proportion when found. All is a sea, without any compass to enable us to distinguish the safe from the dangerous course.*

" *But in the more liberal and great plan of universal representation, a clear and distinct principle at once appears that cannot lead us wrong. Not conveniency, but right; if it is not a maxim of our constitution, that a British subject is to be governed only by laws to which he has consented by himself or his representative, we should instantly abandon the error; but if it is the essential of freedom, founded on the eternal principles of justice and wisdom, and our unalienable birth-right, we should not hesitate in asserting it. Let us then but determine to act on this broad principle of giving to every man his own, and we shall immediately get rid of all the perplexities to which the narrow notions of partiality and exclusion must ever be subject.*

" *In the digesting a plan upon this noble foundation, we shall not find any difficulty that the most common understanding and pains will not easily surmount.*

" *The present number of members in the House of Commons is preserved, so that all apprehensions from too numerous an assembly ceases.*

" *An account of the whole number of males of age in the kingdom is to be taken and divided by the number of members to be sent, which will find the quota of electors to chuse one member; from the best accounts I can now get, it will be about two thousand six hundred; these are to be formed into districts or boroughs from the most contiguous parishes; and by having all the elections throughout the kingdom in one and the same day, and taken in each parish, all fear of riot and tumult vanishes.*

" *The great expence of elections, which arises chiefly from the cost of conveying electors to the place of poll, and entertaining them there and on the road, will be no more when every man will vote in his own parish. Bribery must intirely cease; in a single Borough it would be difficult, on so many as to have any effect, impossible. The numbers to be bought would be infinitely too great for any purse. Besides, annual Parliaments, by their frequency and by their shortness, would doubtless operate in preventing corruption.*

" *The vast expence of petitions to Parliament on account of illegal returns would be reduced almost to nothing. The points on which these contests generally turn, are the qualifications of the electors under the numberless restrictions the present laws have imposed, which require the attendance of witnesses, the production of records, and are subject to infinite dispute. But when no other qualifications should be necessary but that of being a British subject, and of age, there can be but little left to contend upon as to the right of electors to vote.*

" *But there is another sort of objection, against which no provision can be made, as it is merely imaginary. It is feared*

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by some that the influence of poverty and riches will give to the Aristocracy so great a lead in these elections, as to place the whole government in their hands. Others again dread, that when paupers and the lowest orders of the People shall have an equal vote with the first commoner in the kingdom, we shall fall into all the confusion of a democratic republic. The contrariety of these two apprehensions might of itself be a sufficient proof that neither extreme will take place. It is true that the poorest man in the kingdom will have an equal vote with the first, for the choice of a person to whom he intrusts his all; and I think he ought to have that equal degree of security against oppression.

"*Another subject of apprehension is, that the principle of allowing to every man an equal right to vote tends to equality in other respects, and to level property. To me it seems to have a direct contrary tendency.*

"*The protection of property appears to me one of the most essential ends of society; and, so far from injuring it by this plan, I conceive it to be the only means of preserving it; for the present system is hastening with great strides to* perfect equality in universal poverty.

"*It has been said, that this plan of extending the right of voting to every individual creates much uneasiness in the minds of quiet and well disposed persons: and that if paupers, vagabonds, and persons of no property were left out, there would be no objection to extend it to all householders and persons paying taxes, and that the same division into districts might take place. My answer is, that I know of no man, let him be ever so poor, who in his consumption of food, and use of raiment, does not pay taxes; and that I would wish to encourage an enthusiasm for his country in the breast of every subject, by giving him his just share in its government. I readily admit, that such an alteration would be a vast improvement; but I must prefer the adhering rigidly to a self-evident principle, especially when attended with no inconvenience in the execution, that I can foresee. Besides, we should again fall into the difficulties of drawing the line of separation, and into the disputes about qualifications.*

"*For my part, I agree in opinion with those who are for restoring to all parts of the state their just rights at the same time; to do it generally, not partially, is what I must contend for. At the same time, I admit I am not for restoring the negative of the crown. My reason is, that it appears to me preposterous that the will of one man should for ever obstruct every regulation which all the rest of the nation may think necessary. I object to it, as I would to any other prerogative to the crown, or privilege of the Lords or People, that are not founded on reason.*

"*But*

"But I agree, that if the House of Commons was reduced to its natural dependence on the people alone, and the present system of making it the exclusive part of government was continued, we shall approach to a pure democracy more than our constitution warrants, or than I wish to see. I am not for a democratic, any more than for an aristocratic, or monarchic government, solely; I am for that admirable mixture of three, that our inimitable and comprehensive constitution has established; I wish to see the executive part of government revert to where the constitution has originally placed it, in the hands of the crown, to be carried on by its ministers; those ministers under the controul of Parliament; and Parliament under the controul of the people. I would not have Parliament made, as it daily is, a party concerned in every act of state, whereby it becomes the executive for which it is not calculated, and loses its superintending and controuling power, which is the main end of its institution. For when the two Houses are previously pledged by addresses, votes, and resolutions, it becomes extremely difficult for them afterwards to censure measures in which they have been so deeply engaged by acts of their own. Another great inconvenience arises from Parliament's taking so much of the executive of government on itself, which is, the excessive length of the sessions; an evil which of late had greatly increased. Now that parliament is engaged in every detail in order to screen the minister, it never can finish its business till the middle of the summer, when the independent country gentleman, tired of a long attendance and hot weather in town, is retired to his private business in the country, and that of the public left to be settled in thin houses by a few dependants of the minister. A short session of two or three months would be sufficient to examine the expenditure of former grants, to make new ones, to redress grievances, and pass such general laws as circumstances might require. The inconveniency and expence to a private member of parliament in attending his duty would then be trifling; and, instead of forty commoners, and three peers, to form a quorum to decide the greatest matters of state, the attendance of two-thirds of each body, which would give respect to their proceedings, might and ought to be required. I am also free to own my opinion, that when the House of Lords shall be effectually prevented from having any influence in the House of Commons, as I think it must by this bill, it should at the same time recover its equal rights in every respect with the House of Commons as a co-ordinate branch of legislature. These sentiments are, I think, consonant to the idea so well expressed in your letter to the volunteer army of the province of Ulster, "to

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restore to the crown its original splendor, to Nobility its ancient privileges, and to the Nation at large its inherent rights."

A clerk of the House of Lords then attended with a journal of the proceedings dated the 8th of February, 1780. It contained a motion of the Earl of Shelburne, for a committee of those who were not placemen, pensioners, &c. to consider of the expenditure of the public revenue, and the means we had of defraying these expences. The motion was made in consequence of a petition couched in very strong language; and the motion was negatived. A protest was then entered, in which after describing the expences of the war, to be so great as to exceed the patience which may be expected in the people to bear the additional taxes, to which they would give, said that their resource must then be in pensions, sinecures, and useless places. It asserted the right of the people to associate in bodies for the attainment of their reasonable demands, as associations proclaimed more loudly the voice of the nation than the remonstrances of individuals, &c.

This address was signed by that venerable constitutional lawyer Earl Camden, together with the illustrious names of Richmond, Portland, Devonshire, Grafton, Shelburne, Rockingham, Fitzwilliam, Tankerville, &c. &c. This protest was acknowledged by the Duke of Richmond, and Mr. Erskine said it supported and maintained all those proceedings which were now brought against Hardy as charges of High Treason.

A. Stirling identified the minutes of the Scotch Borough Convention.

Mr. Ferguson was called.

Mr. Erskine said, that much stress had been laid on the circumstance of the societies having adopted French phrases, particularly the terms Convention and Delegates; he had called this gentleman to prove that he was a delegate to a convention of respectable gentlemen in Scotland, at the same time that the British convention were assembled in Edinburgh.

Chief Justice Eyre. I object to such evidence, as being quite irrevelant; it would lead to a history entirely unconnected with the cause.

Joseph Strutt was then called. He had belonged to a society instituted for the purpose of obtaining a reform in parliament.

Mr. Erskine asked him, had the society any other object?

A. No.

Q. Did it meditate any thing against the other two branches of the legislature?—A. It certainly did not. Since the rejection of the petition to the House of Commons, I believe the society has not assembled more than once.

Mr.

Mr. Erſkine propoſed next to give in evidence the reſolutions of the Aſſociation at the Thatched Houſe Tavern, in 1789.

The Lord Preſident. What would you ſay if we were of opinion that theſe aſſociations amounted to High Treaſon?

Mr. Erſkine. My Lord, I can hardly conceive it poſſible that ſome of the greateſt characters in the kingdom, and ſome of the greateſt favourites of the King, ſhould have been guilty of High Treaſon.

Preſident. We know nothing of the circumſtances of thoſe aſſociations.

Mr. Erſkine ſaid, he was ready to ſtate them to his Lordſhip.

He was however over-ruled.

Richard Brinſley Sheridan, Eſq; was the next witneſs for the priſoner.

Mr. Erſkine ſtated to the Court, that he called this gentleman to prove that Hardy had offered all his papers to be laid before parliament in the year 1793.

Queſtion to Mr. Sheridan. Did you ever ſee the priſoner?

A. Yes.

Q. At what time?

A. The firſt time was in the month of March, 1793. I'll ſtate, as ſhortly as poſſible, how the circumſtance happened. I had given notice in the Houſe of Commons of a motion for a Committee of that Houſe, to enquire into the ſeditious practices that were ſaid to exiſt in ſeveral ſocieties in this metropolis.

Q. Was the Scotch Convention ſitting at that time?

A. I do not perfectly recollect. Having given the notice, I thought it was my duty to collect all the information poſſible on the ſubject. I was rather unbelieving with reſpect to what I had heard of the extent to which ſeditious practices were carried in thoſe ſocieties. By the advice of a gentleman of my acquaintance, I ſent for Mr. Hardy. He immediately came to me. I ſhewed him the book which was circulated among the Members of the two Houſes of Parliament, giving an account of the proceedings of thoſe ſocieties. He obſerved, that, in many things, government had received very correct intelligence, particularly with reſpect to the number of the diviſions, and the places of their aſſembling; but he complained that their objects and principles had been greatly miſſtated and miſrepreſented.

Q. Did he, Sir, declare what their real object was?

A. He declared that their whole object was to obtain, by peaceable means, a parliamentary reform, on the plan of the

Duke of Richmond. Upon my interrogating him, (I do not mean that I considered him under any obligation to answer) he told me the societies did not meet at the same places where they used to assemble. As they consisted chiefly of persons who could not afford to spend much, the keepers of public houses had been easily induced to dismiss them. I asked Mr. Hardy if the societies continued to meet any where. He answered, yes; and he had no objection to give me a list of the private houses where they had held their meetings. I took down the names of several of these places.

Q. Have you the paper now?

A. I believe I have lost it. I had it in my hand the day I made the motion in the House of Commons. Mr. Hardy offered me a sight of all the books, papers, and correspondence of the society; and he requested that, if I thought proper, I would make the contents of them known in parliament. When he understood the nature of the motion I intended to make, he expressed a most eager and ardent wish that the committee might be appointed, and that an enquiry into the affairs and conduct of the societies might be instituted.

Q. Was this offer voluntary, or did he conceive that he was bound to make it to you as a Member of Parliament or a Magistrate?

A. The offer was voluntary, and, as I believed, arising from a sincere wish that the motion I intended to make should be successful; that is, that a Committee of Enquiry might be instituted.

Cross-examined by the Attorney General.

Q. Did Mr. Hardy ever shew you any book, journal, or books?

A. Mr. Hardy did not shew me any journal, or book or books. He offered generally to give me all the information respecting the society he could. He said they had been greatly calumniated by the publications of government.

Q. Are you, Sir, a Member of the Society for Constitutional Information? A. Mr. Attorney, I hardly know whether I am, or not; I have not formally withdrawn my name from the books, but I have not attended the society since the year 1793; I should suppose I am a Member.

Mr. Francis was next called.

Q. Do you know the prisoner?

A. I do; but I never saw him more than once. On or before the 3d of May, 1793, Mr. Hardy sent to me, requesting me to present to the House of Commons a Petition

tion for a Parliamentary Reform; and that I would permit Mr. Margarot, and two of the Delegates whose names I forget, to come to my house on the subject;—they came, and, as the form of the petition seemed perfectly respectful, I told them I would present it; informing them, at the same time, that I was perfectly adverse to its prayer. Hardy appeared to me to be a remarkable quiet, temperate man. I was surprised at the readiness of their arguments in defence of universal suffrage. Margarot said I need not be surprised, for they had learnt these arguments from the Duke of Richmond. I mentioned that I thought it would have been better to leave the mode of redress, as in other cases, to the wisdom of Parliament. They said, they were sorry they had not known my objections sooner; but it was then impossible to alter the petition, as the names were subscribed, and there would not be time enough to prepare a new petition before the 6th of May, when Mr. Grey was to make his motion.

They all shewed remarkable readiness to hear reasonable arguments and objections.

On cross-examination, Mr. Francis said, the Delegates shewed great anxiety about the fate of their petition. They had forwarded it to Mr. Fox, who had refused to present it. Now they adhered to their original approbation of universal suffrage; they never said that they would accept of nothing less than universal suffrage. The letter of thanks sent by the London Corresponding Society to Mr. Francis, with that Gentleman's answer, were read. He said, he thought they were much misled, but he did not believe that they had any other objects than those which they professed.

Lord Lauderdale was next examined. He said, he had received a letter from the Society of the Friends of the People in the suburbs of Edinburgh, requesting to become a delegate to the Scotch Convention. He had seen Skirving, who had urged him to accept the offer. He said, that his (Lord Lauderdale's) coming among them would prevent them from committing those irregularities and informalities, which they might otherwise fall into; he heard nothing among them injurious to the Crown or the House of Lords. Their language was, to enquire, by peaceable means, a thorough Reform in Parliament.

The evidence on both sides being concluded,

Mr. Gibbs rose for the prisoner, but was so agitated as to be obliged to sit down in order to recover himself. After some minutes he proceeded—That he needed not state the anxiety of mind which he felt on the present occasion. He now rose, sinking under the weight of a cause in which the mighty abilities of his honour-

able and learned friend had almost sunk. It was not because he had any wish to spare himself; he was not desirous to withhold either his strength or abilities. Such as they were, they had been exerted to the utmost; he would defend the prisoner if his strength was equal to the task of conducting the defence; but he confessed himself unable to comprehend the vast mass of evidence which had been brought forward. On his part, no industry had been wanting during the period of interval allowed by the Court. But he begged to advert to the particular and unprecedented circumstances of the present case. The Attorney General, in his opening speech, took up a space of nine hours—a circumstance unheard of in the annals of history—no speech, upon any occasion, had perhaps ever extended to so great a length. Yet to suppose that he had stated the case at greater length than was necessary, or had brought forward evidence which was not connected with the subject, would be to suppose that he intended to puzzle and harrass the counsel, and to confound and perplex the Jury. His learned friend, Mr. Erskine, himself, was unable to comprehend that immense and complicated mass of evidence; indeed it was impossible for any counsel so to comprehend it, as to be able to make a fair defence. First, he would state what was the law, which was to be found in the indictment, and in the statute of treason, as it applies to that indictment. The first charge of the indictment was that of compassing the King's death, and the overt act charged was that of concerting the plan of a convention, with a view to depose the King in order that they might afterwards destroy him. It was not necessary to state the other overt acts, because their tendency was the same. The facts stated against the prisoner were these:—first, that he had an intention of mind to destroy the King; secondly, that, in pursuance of that intention, he did the acts pursued in the indictment. His learned friend had argued very ably on the statute of Edward III. on which the present indictment was founded. The first treason in the Statute, and the first charge in the indictment, was compassing the King's death. In the present case, the form of the indictment and the statute went hand in hand. When he recollected that his learned friend (Mr. Erskine) had already so fully and ably stated what was the law of the case, he was sure the Jury would regret that it was at all necessary for him to go over the same ground. Lord Coke had very forcibly commented on the statute of Edward III. and what he had said on the subject shewed how exceedingly careful an English Jury ought to be, not to extend the statute beyond its proper limits. (He then read an extract from Lord Coke's Institutes.) This passage contained an exhortation to all Juries, not to find their verdict guilty, without plain, direct, and manifest proof. Such was the proof which the legislature required in cases of treason, and such was the proof which the Jury were bound to require in the present instance. In proof of his assertion, he referred to the proceedings on the trial of Lord Russel for High Treason.

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The doctrine delivered on that occasion he supposed to be law, because it had been alluded to from the Bench in the course of the present trial.

The indictment charged Lord Russel with conspiring to seize the King's guards, in order to destroy his Majesty. The evidence on the case went to prove the existence of such a conspiracy. Yet my Lord Chief Justice Pemberton, in his charge to the Jury, said to them, "You are to find whether, upon the whole matter, any design has been entertained against the King's life." Yet no man would complain that the proceedings on that trial were not sufficiently severe.

What made this proceeding on this occasion the more remarkable was, on the same morning some persons had been tried for being engaged in the Rye-House plot, and the distinction was taken in Court, that these persons stood in a different situation from that of Lord Russel, having been directly engaged in a plot to murder the King.

Such was the charge of Lord Chief Justice Pemberton, though the friends of Lord Russel complained that he was severely dealt with, he left it to the Jury to find upon the whole matter before them. The Jury found their verdict guilty; and surely, when it was proved to them that a plot was in agitation to seize upon the King's guards, who were entrusted with the immediate protection of his person, they might reasonably enough form the conclusion that his life was aimed at. Yet when Lord Russel was brought up to receive sentence, and heard the indictment read, he started back upon hearing the charge of compassing the King's death, and was proceeding to state that the overt act by no means came under that description, when he was answered by the Recorder, that such a remark might, with propriety, have previously been made to the Jury, but that they had now found upon the whole matter, and that all such objections were too late. It was evident, therefore, that the point for the Jury, in all such cases, was to consider whether the overt act charged in the subsequent part of the indictment amounted to the treason charged in the former part.

Having stated what was the law of the case, he now came more particularly to consider what was charged against the prisoner. It was stated in the indictment, that he had concerted to call a Convention, in order to overthrow the Government, and depose the King. It was allowed on all hands that he had agreed to call a Convention, but that the object of the proposed Convention was such as was charged in the indictment, the Counsel for the Prisoner could by no means admit. In order to prove that such was indeed the object, it would be necessary for the prosecution for the Crown to shew, first, that no Convention had in any instance been called, except for treasonable purposes—and secondly, that this Convention was really called for the purpose of deposing the King, and thereby compassing his death. We on the other hand contend, that this Convention was in itself legal, and called for lawful purposes. The prisoner believed that corruption had made great strides in

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the British Constitution, and that considerable abuses had crept into the original frame of the Government. He was of opinion that it was necessary, in order to restore the Constitution to it's purity, that these abuses should be redressed; and at the same time he had found, that every petition of individuals, demanding a remedy, had been peremptorily, not to say contumeliously, rejected. In this situation, he thought that the only way to collect the voice of the people, and to convey it to Parliament with due effect, would be to call a Convention. All this was contended by the prosecution for the Crown to be mere pretext. "You did not," say they to the prisoner, "think that there existed abuses in the Constitution which might be remedied by calling a Convention; you talked of redressing it's abuses by the very means you intended should effect it's subversion." But before a Jury be induced to give credit to a charge of this nature, it must be made out by plain, direct, and manifest proof.

There are two points which the prosecution for the Crown have laboured: first, to prove that there existed in the kingdom a general conspiracy of different societies; and, secondly, that the prisoner was concerned in the plots of all these societies. Both of these they thought necessary for the purpose of making out the guilt of the prisoner. They have therefore brought evidence of every thing that has been declared or done in all these societies, and which they contend proceeded from a design to depose the King, in order afterwards to destroy him; and in the whole of this plot they affirm that the prisoner was engaged. By this means the Counsel for the prisoner are laid under considerable hardship. It became impossible distinctly to state what part of the proof did or did not immediately affect the prisoner. Even his honourable friend, with all his abilities, had not been able to discriminate with respect to the complicated proof that had been brought forward. Sometimes evidence was produced of what had been done in one society, then of what had been done in another; nay, the actions and expressions of different individuals were brought together, in order to load the prisoner with the accumulated guilt of high treason.

Had the Counsel for the prosecution first brought forward the general proof of the existence of a conspiracy in the country, and, secondly, the particular proof as it affected the prisoner, the difficulty would then have been obviated. As the evidence has been brought forward, it has become impossible properly to discriminate between it's several parts, in conducting the defence. It was not his business to say whether some of the circumstances that had come out in evidence were criminal, or not; but he defied his learned friend to prove that any of these amounted to an overt act of high treason. He would not contend that there might not be some instances of improper or indecent conduct to be found in transactions of those societies: but these, it is to be considered, proceeded from a rash or irritated mind. All that made for the prisoner ought to be taken into consideration, as well as what made against him. If it was alledged that the reform proposed to be obtained by holding

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a Convention was merely a pretext, the uniform tenor of the papers that had been produced proved that it was really his object.

Another charge brought against the ſocieties was their introduction of French terms. But this was a charge which would have no weight: for when it had that day been attempted to prove that the terms Convention and Delegates, on which ſo much ſtreſs had been laid, were not adopted from the example of the French, but were Engliſh terms, in common uſe, the evidence was rejected by the Bench as immaterial, and not at all fit to be taken into conſideration by the Jury. No inference, therefore, was to be drawn, that this alledged introduction of French terms implied by any means an adoption of French ideas.

Another charge was, that they approved of the French revolution. It was natural for them to approve of that revolution, becauſe they were Engliſhmen, and becauſe they were freemen. It was natural for them to rejoice that a nation ſo long held in the moſt abject ſlavery, were at laſt likely to participate in that freedom which was the glory and the boaſt of Engliſhmen. But it was ſaid that they continued to approve of the French revolution, after it had been diſgraced by the moſt ſanguinary exceſſes. Was it therefore to be inferred that they approved of thoſe exceſſes, or wiſhed a ſimilar conduct to be purſued in this country? They might approve of the original revolution, as reſtoring freedom to a great nation, and at the ſame time lament thoſe acts of cruelty by which it had been afterwards tarniſhed. At any rate, it was by no means to be inferred that they conceived that a ſimilar revolution ought to take place in this country. Here the ſame neceſſity did not exiſt; they had not the ſame grounds of complaint from an overbearing Nobility, and an arbitrary Monarch. Even if, from a miſguided zeal for freedom, they had approved of the worſt acts of the French revolution, they were not to be ſet down as traitors to the free conſtitution of this country. But it was alledged that they had gone ſo far as to wiſh for an union with France; and what good ſubject would not wiſh for ſuch an union? Enough ſurely had been experienced of the calamities of war to render ſuch an union deſirable, if it could honourably be effected. They might be miſtaken in their politics, but they were not therefore to be branded as guilty in their intentions.

Another charge brought againſt them was, that they had paſſed a reſolution to inſert in the books of the ſociety the ſpeeches of Roland and Kerſaint—a reſolution, which, by the bye, was never carried into effect. And what was the mighty guilt attached to ſuch a reſolution, which, at moſt, could only have afforded to the members an opportunity of being acquainted with the ſentiments of the leading men in France. But how did a charge of this nature apply to the priſoner, a poor ſhoemaker, who could not be ſuppoſed to underſtand French, or be a reader of the Moniteur, in which theſe ſpeeches were originally inſerted? If they approved of the reaſons for putting to death the King of France, were they to be ſuppoſed to entertain the ſame ſentiments with reſpect to the King

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of England? What was the state of the case? The King of France had accepted of a Constitution which he was charged with having violated, and under which he suffered. The King of England never violated that Constitution by which he holds his Crown: he reigns less by the terror of his authority, than the influence of his virtues: he has nothing to fear for his security, while he lives in the hearts of his subjects.

But it has been said that they must have meant to have recourse to force, because they had resolved in future not to petition Parliament. It appeared to him that such a resolution necessarily preceded the measure of calling a Convention. If the petitions of individuals had been successful in order to procure a reform, there would have been no necessity for calling a Convention. It was because these petitions had been rejected that they therefore thought a Convention would give greater effect to their request, and procure that redress which had been refused to their former applications. The protest of the venerable Lord Camden had been that day read in Court, from which, among other things, it appeared that after petitions had been rejected, the voice of a Convention was a Legal and Constitutional mode of conveying the sense of the people to the ear of Parliament. A good deal of stress had been laid on the proceedings of the Scotch Convention, particularly the resolution to resist the passing of a particular act by the Legislature. But to conspire to procure the repeal of an act already passed does not amount to High Treason: therefore the act of conspiring to resist an act that is not at all in existence, cannot surely constitute that crime. The Prisoner was only interested in the proceedings of the Scotch Convention, so far as the Delegates had acted under the authority and agreeably to the instructions of the Society to which it belonged.

The proceedings of that Convention he was not interested to defend:—they were such as he highly disapproved. But it did not appear to him that the Prisoner ought to be affected by proceedings, in which, in the first instance, he had no share. They were attempted to be fixed upon the society to which he belonged, in consequence of the subsequent publications. But they were then irritated at the fate of their Delegates—a fate which, from high legal authority, had been admitted to be severe; some allowance was to be made for what was done in the moment of irritation, and an English Jury would not be extreme to mark expressions rashly and hastily uttered. But he had legal authority to prove, that no act of the Scotch Convention amounted to High Treason; some of the Delegates to that Convention had been tried for a misdemeanour, and found guilty upon the same evidence which had been brought in the present instance to establish the charge of High Treason. But if the acts of the Delegates did not amount to Treason, much less could the concerts to bring about the Convention come under that description. He now came to the parole evidence brought to prove that the direct object of the Prisoner, and all the Societies, by calling a Convention,

tion, was to depose the King, in order that they might afterwards destroy him. The first witnesses were those from Sheffield, Camage and Broomhead, who were called to shew that means had actually been taken to support the Convention by force against the whole armed body of the Government. They proved indeed that some pikes had been prepared—but in what circumstances? They were made by a party, because they had every reason to apprehend an attack from those who differed with them in sentiment; inflammatory hand-bills had been circulated, in order to excite the populace against them; a musket had been fired into one of their houses. In such a situation, it was both their right and their duty to provide against an illegal attack. Neither the legality, nor the necessity of arming themselves, could in such a case be disputed. He here referred to the case of Dr. Priestley, who would have been justified in resisting the mob who destroyed his house—of Mr. Walker, of Manchester, who had experienced the effects of the same lawless fury—and, lastly, of the Mayor of Nottingham, who in defending his house, killed two of the rioters by whom he was attacked. But how was this charge of providing arms attempted to be fixed on the Prisoner? Because he, forsooth, was a member of a society which had corresponded with the Sheffield Society, and had received a letter on the subject of arms. This letter he does not answer, he does not even so much as communicate it's contents, except to one person, who asks him where he must apply in order to procure a pike; he does not send a letter which it incloses according to the directions; in short, he takes no step which can imply the smallest approbation of the proposal contained in that letter. Had he taken any step, it would not have failed to have appeared in evidence, surrounded as he has been for three years by a host of spies, who were continually at his elbow, who watched his every motion, and caught up every expression that fell from his lips. Was this evidence of such a nature as could convince any reasonable mind that the Prisoner intended to resist all the military force and armed associations of Great Britain? What were the means provided for this purpose? About three dozen of pikes, an order for sixty muskets, and somewhat less than half a dozen French case-knives. Such was the facility of arming themselves, that it had been stated in evidence, that in Sheffield they might have provided themselves with ten thousand pikes in one day. If they had the will, it appeared then that they had the means; but though they had begun to arm in 1792, or in the beginning of 1793, they had made no further progress in arming than he had just now had occasion to mention. Mr. Gibbs then proceeded to examine the circumstances of Hardy having recommended Williams, who was his customer, to the sale of a few muskets, and the armed Association of Franklow. This Association, he would not contend whether it was proper or improper, but it was at least open and avowed; Franklow appeared publicly in his uniform, and his cartridge-box lay exposed to view in his shop.

Franklow was an old dabbler in military matters, and might chuse, when armed Associations were the fashion of the day, to have one of his own. He remembered himself once to have been in arms, and to have acted as Lieutenant, under his friend, Mr. Erskine, in 1780. Good God! exclaimed Mr. Gibbs, if such evidence be admitted to convict a man of High Treason, who can possibly be safe for a moment? Or, what sentence can we expect from the Judge of the Universe, in the great day of retribution, if we can be satisfied upon such proofs to condemn a fellow-creature? The next witness was Gosling, one of that infamous race of men who having no means of support of their own, endeavour to pick up a livelihood by insinuating themselves into the confidence of others, in order that they might betray their secrets to Government. He would not say that the evidence of such persons, where it was corroborated with other testimony, ought not be admitted, but it ought always to be received with extreme caution. In his chief examination, he had his story quite ready and precise, but in his cross-examination, he was abashed, confounded, and unable to reply even to the simplest questions. Some part of his evidence carried with it its own contradiction. He stated that a man had gone about the country to tamper with the soldiers; that with some he had succeeded, but that many had resisted. If such had been the case, could not these soldiers easily have been produced in evidence, and in the anxiety which had been shewn to procure proof from all quarters, would such material witnesses have been omitted? Another witness of the same sort was Lynam; he spoke from notes, which, in many instances, were incorrect, and though taken for the express purpose of being given in evidence, are all vague and general. He, forsooth, had not attended to particulars, he had only gathered the general strain of the conversation, and in order to fix any particular imputation of criminality, he was obliged to have recourse to his recollection. To the evidence given by such a witness, no degree of credit was due. He next came to the evidence of Mr. Groves, upon which he commented at some length. This man appeared, by the subsequent testimony of Green, to have been guilty of perjury; and by his own cross-examination, of a voluntary suppression of the truth, in order to keep back evidence that might have been favourable to the Prisoner. Such were the arts to which this infamous Spy had recourse, in order to enhance the value of his own evidence to his employers, and poison the course of justice. Yet even from his testimony, corroborated by that of the other witnesses, it appeared, that the only object of these Societies was a Reform in the Representation of the People, to be obtained by legal and peaceable means, and that they had not the smallest intention of interfering either with the dignity of the Peers or the authority of the Crown. An attempt had been made to fix upon the Prisoner the guilt of the man lately executed in Edinburgh—likewise a Spy of Ministers, who having over valued his services, was dismissed, and in attempting

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to make a plot, which might entitle him to a reward from Government, the expence of the lives of innocent or deluded men, was caught in his own snare, and hanged as he richly deserved—a person too with whom Hardy, the prisoner, had no correspondence, and whom it could not even be proved, that he knew by name. A question had been put to the witnesses whether they thought that these Societies intended to pursue their object by peaceable and orderly means. This was intended to throw dust into the eyes of the Jury; it was not the question how far the means were in themselves peaceable and orderly, but whether they went to depose and ultimately to destroy the King. If one act did not clearly amount to High Treason, all the acts brought out in evidence could not by any fair construction of the law of England amount to that crime. Though the whole Court were full of offensive matter—though the evidence went to prove innumerable libels and misdemeanors, still the Jury, laying aside all considerations of politics, and attending only to facts, were bound only to find a verdict guilty upon the plain, direct and manifest proof of the crime of High Treason. Miserable as the evidence was with respect to the subject of arms, yet without it nothing could have been done in making out the charges of the indictment. It was proof of such a nature as would even weaken the force of a strong case, and the present case would certainly have been much stronger, if no such charge had been introduced. The overt-act, he apprehended, was the resolution to call a Convention, the words of which he read; yet surrounded as they had been by Spies, not one proof had been brought to connect this calling of a Convention with any preparation of armed force, or to shew that they intended to proceed to the object in any other way than by the peaceable means of discussion. Yet if they could not prove that this resolution to call a Convention, was connected with a determination to support it by armed force, they proved nothing to the purpose.

One curious circumstance he could not but remark, that the counsel for the prosecution seemed much better acquainted with the evidence for the defence, than even the counsel for the prisoner:—for instance, when a Mr. Stevens was called, they asked whether it was Mr. Stevens of Rathbone-place, or Mr. Stevens of the Minories. If there was, therefore, any deficiency of proof on the part of the prosecution, it did not at least arise from any want of care in providing witnesses, nor could it be supposed that there remained any thing behind which could have been brought forward to advantage. Yet there was hardly one act which had been brought forward in evidence which had been made public at the time by the societies themselves—so far were they from being conscious of any illegal conduct or treasonable intentions. Of the evidence called for the prisoners, two were particularly entitled to attention.

He referred to the evidence of Mr. Sheridan and Mr. Francis, as proof that the prisoner could have no evil intention. To Mr.

 Sheridan

Sheridan he had offered the inspection of all his papers without reserve. Mr. Francis he had asked to present a Petition to the House of Commons, praying for universal suffrage and annual election; reasoned upon the subject, and professed his adherence to the Duke of Richmond's principles. One being told that it was informal in a petition complaining of a grievance, to insist upon a specific remedy, he had professed his readiness to adopt any form, but still maintained that universal suffrage and annual elections was the only adequate remedy. Surely this was the conduct of a man, who, however erroneous he might be in his opinions, was himself sincere in the belief that they were well founded. The counsel for the Crown wished the Jury to believe, that all this was only pretext on the part of the prisoner to cover treasonable designs. Let the Jury examine how this stood. The prisoner and those with whom he acted, thought the Representation of the People defective, and the House of Commons in consequence corrupt. They were persuaded also that a majority of the people held the same opinion—he did not say so, but they thought so—and therefore wished to appoint a meeting of delegates, by which they might ascertain beyond dispute that this was the opinion of the people, and concert the means of giving it effect. What said the Duke of Richmond? That all attempts to obtain Reform from the Parliament itself, with every incidental help and advantage, were overborne by the corruption of Parliament; that not a single proselyte had been gained from corruption; and that the only remaining hope of Reform was from the people.—What was the remedy he expected to come from the People for this corruption of Parliament? Universal suffrage and annual elections. Now it was objected to the prisoner, that his own complaint of the corruption of Parliament, was all a pretext. What colour was there for this, when twenty witnesses had deposed, and almost any number might have been produced, that both he and they adopted the opinion of the Duke of Richmond? The prisoner thought a Convention of delegates the best mode of obtaining a Reform. The Duke of Richmond published that he expected no Reform but from the people at large. When the Duke of Richmond said this, how was a plain man, like the prisoner, to understand it? The fair construction was, that he thought the collected sense of the people at large, communicated to Parliament, would not be disregarded, as the petitions of comparative small bodies had been, and that thus by Constitutional means, the reform he thought necessary would be effected. If this, which was the probable interpretation of his views, were but barely possible, surely, surely, the Jury would not prefer the harsher to the more lenient construction.

It was a maxim of law, that in all doubtful cases they were to incline to innocence, and that acts, of themselves indifferent, were in every case to be taken in the most favourable sense. He referred to a motion for a committee to enquire into certain abuses made by Lord Shelburne, in the House of Lords, during the

the American War. This motion, although negatived by the majority in point of numbers, might be said to have been supported by the majority in point of character and talents. Among the supporters of it were the venerable Earl Camden, a man who surely understood the law and the constitution of his country; Marquis of Rockingham, Duke of Portland, Earl Fitzwilliam, &c. They not only supported it, but thought it their duty to hand down their reasons for doing so, in a protest. The second reason in this protest was, that a great majority of the people, as appeared by the Resolutions of numerous associations, were desirous of such an enquiry. They added, that although some persons were alarmed at those associations, the sole object of them was to make the whole body of the Representatives of the People acquainted with the wishes of the whole body of their constituents. This too was the object of the prisoner. The protest went on to state the impossibility of rejecting the petitions of the collective body of the people. If Lord Camden and the illustrious characters who signed that protest said so; if they held it to be impossible to reject the petitions of the collective body of the people, surely a man like the prisoner, who followed great authorities rather than thought for himself, might be allowed to say so too, without being suspected of evil intention. "It is admitted," said the protest, "that the House of Commons may vote as they please, but it is hoped that so wise a body will never, by rejecting the petitions of a majority of the people, put to hazard the question whether they have not betrayed their trust." This he read to shew, that in the opinion of great constitutional lawyers, of eminent statesmen, of unimpeachable characters, associations of the people to watch the conduct of parliament, were not only innocent but commendable. If all this was true, what offence had the prisoner committed? He defied any man to shew, from the evidence produced on the part of the prosecution, that the prisoner had taken any step for acting by force. To conclude that his intentions were treasonable when nothing appeared against him, but acts which the law admitted to be innocent, and which great authorities had held to be laudable, would neither be charitable, nor befitting the character of an English Jury. Suppose the Duke of Richmond could descend from his high station, and become the advocate of the prisoner: —he would say, "His sins are mine, if he was misled, I misled him. But it will be said that harsh resolutions were passed in the societies of which the prisoner was a member—Granted.— The prisoner was an ignorant man compared with those whose plans he followed, and when the ultimate end, and the means of effecting it were so clearly the same, a little indiscretion on his part might be excused. I, with all the advantages of rank and knowledge, with connections to support me in the attempt, or to comfort in case of failure, prepared this plan. He, with none of these advantages, followed the example I had given him. You will say that he has gone farther than I did. Perhaps he may; but he had less information and greater provocation." If the Duke of Richmond

mind were to feel for a moment, that the life of the prisoner was in danger, his blood must curdle with horror; he must shudder at the very idea of guilt being imputed to the prisoner for the very same opinions and principles, that had been thought commendable in himself. None of the evidence that was not brought personally home to the prisoner, ought to have any weight, except as it went to prove the general charge of a plot, and this would exclude nine-tenths of the whole. The prisoner had co-operated in a plan for assembling a convention, but by no part of the evidence was there a shadow of proof, that he ever meant to employ force. He was aware of separating the evidence on these heads; he had attempted it, but from the immense mass, and not having in his possession one third of the papers read, he had found it impossible. It was proved, and indeed admitted, that for two years the prisoner had never been without a spy at his elbow. He had been watched in the societies. He had been watched in the moments of unsuspecting intercourse with his private friends, in the moments of familiar and unguarded conversation. Was it not singular, if he really harboured in his mind such purposes as were imputed to him, that in such a length of time, not a single expression of disrespect to the King or the House of Lords, had ever dropped from his lips; not an unguarded word about employing force upon any occasion had escaped him? No matter who else had meditated employing force; if the prisoner had not, he was innocent. No word of his, no casual expression to this effect, was attempted to be proved. No man, however cunning, could have kept such a watch over his secret thoughts. It was not in human nature to act; it was not in human credulity to believe. If he had been a man of dissolute life, his rushing hastily into any scene of guilt might not have been improbable. But such a character had been given of him, as, of any man in his station of life, had never been given in a court of justice:—Friends, neighbours, employers, the clergyman of whose congregation he was one—all concurred in declaring him religious, sober, industrious, mild in his temper, exemplary in his general conduct, and worthy of any trust. The clergyman said, that he had conversed intimately with him upon political subjects, for the express purpose of discovering his real intentions, and was persuaded that they were what he professed them to be. Many of the witnesses to his character, did not belong to the same societies, nor entertain the same political sentiments; yet they all concurred in stating his character to be irreproachable, and some of them had known him for twenty years. This was one of the cases in which character ought more particularly to avail, for the Jury were to try and pronounce upon the act of the prisoner's mind: and unless they were convinced that he meant to overturn the Government, as the means of effecting the death of the King, they must acquit him."

Chief Justice Eyre. "Prisoner, you applied to the Court for counsel, and counsel were assigned you. They have now concluded what they have to say in your defence. You are at full liberty

berty to offer a defence for yourself. If you have any thing to say, this is the proper time."

Prisoner. "I am perfectly satisfied with the defence my counsel have made for me, and wish to add nothing to it."

The Court adjourned for an hour, and being resumed,

The Solicitor General, Sir John Mitford, rose to reply, and in some degree to sum up. After some compliments to his learned friends on the able defence they had made for the prisoner, he said he must first notice what had been said to the Jury on the policy of their verdict. They were to decide on the evidence before them, and the law as it affected that evidence, without regard to political circumstances. Trial by jury was not only the great protection of the State and of every individual who lived under it, but that controul over the administration of justice by the executive power, which the people had kept in their own hands—that which the tyranny of Cromwell could not subdue, and which was the first to shake James II. on his throne. In ordinary cases the States could be in no danger from the verdict of a Jury. In some cases it might —but even this consideration they were to lay aside. No important fact, at least none that could shake the main points of the charge, had been disputed by the prisoner. His Counsel, with great judgment, had forborne to touch upon the strongest facts. To attack the parole evidence, was indeed impossible, for numerous as were the witnesses by which it was supported, they knew it might have been supported by almost any number more. Much of what they had said tended rather to accuse the Duke of Richmond, and another of his Majesty's ministers, than to exculpate the prisoner. All this the Jury were entirely to pass by, and attend only to the evidence, as it applied to the prisoner. He should therefore take a short view of the law of the case; but first make a few remarks on the evidence, as it applied to the prisoner's intention. The Attorney General, in his opening, did not impute evil intention to all the persons who were members of those societies. He knew that a system of fraud and deception had pervaded the whole, by which the few had imposed upon the many. If this had been doubtful before, it was now clear. The whole of the Sheffield evidence went to shew that the members of the society there followed their leaders implicitly, and adopted whatever they thought fit to propose. In this manner inattentive and unsuspecting men, without any evil intention of their own, might be led by the evil intention of others, to the most violent and guilty extremes. Why, instead of witnesses who knew the prisoner but by general character, were not persons called who had been parties to the more secret transactions of the societies, or who at least had continued members till the time of his being taken into custody? It was only in the latter part of the business that the evil intention became clearly manifest. He denied that equal credit was to be given to the witnesses for the Crown, when their evidence made in favour of the prisoner, and when it made against him. The Jury would

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consider that the testimony even of honest men might be affected by a particular bias of mind, and judge of it accordingly. The people of Sheffield had been imposed upon, when they thought of providing themselves with arms. They were told by the designing few, that the Aristocrats, as they were called, were going to attack them, and that they were entitled by the Bill of Rights to provide arms for their own defence. But these arms, when provided for defence, might have been employed, on some new suggestion of the leaders, for offence. They said they had been insulted and threatened by the Church and King Clubs. These clubs had very possibly done unjustifiable things; but their orator, Mr. Yorke, who, by the accounts they gave of him, was not a man destitute of information, when he told them they had a right to arm for their own defence, did not tell them they had a right to apply to the civil magistrate for defence. A plan had been once on foot for making 10,000 pikes, in Sheffield, in one day. When this was done, Mr. Yorke might have proposed what he had before hinted, viz. marching to London, rather than be trampled upon, as he said they were, and there acting like the Marseillois, who had transacted things not of the most agreeable nature at Paris. At Sheffield, a petition to the House of Commons had been prepared, couched in such terms as they knew must cause it to be rejected. Was this a *bona fide* transaction, or a pretext to cover the further proceedings they intended, and which were, perhaps, prepared before the petition? It was therefore clear that a system had been pursued, which absolved from any heinous degree of guilt, the greater part of those who had been drawn in to support it. Some of them said, they wanted only to bring back the House of Commons to what it was in the Revolution. The only alterations in the House of Commons since the Revolution were the Septennial Act, and some acts excluding contractors from sitting in it, and certain persons supposed to be under the immediate influence of the Executive Government from voting at elections, so that the House of Commons might truly be said to have been improved since the Revolution, instead of having gone to decay; such were the delusions practised upon the many by the few. The great majority being thus absolved from any high degree of guilt, though certainly not exempt from blame, the guilt of the few who deluded was the greater. Among these, the prisoner at the bar was deeply implicated by the evidence. He could not say, that he took no part in preparing the business to be transacted, or that he voted heedlessly and implicitly for whatever was proposed. A Secret Committee had been appointed; this committee was dissolved, but with powers to the members to elect a new committee, the names of the members composing which, were not even to be known by the society. Here was a thing unexampled in any state, for a little state this society was, and therefore dangerous. If their intentions were honest, why such secrecy in the prime directors of all their movements? Why not act openly, as they had done before? Speculative opi-

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nions on government, or on any other ſubject, were allowed in this country, unleſs hurtful in the manner of circulating them. Such a check muſt exiſt in every government, as no government could ſtand againſt conſtant attempts to diſturb the opinions. All governments muſt be adminiſtered by a few in compariſon of the many, and how was the ſubmiſſion of the many to the few to be ſecured but by the force of opinion? Even the members of the Conſtituent Aſſembly of France, when they had framed, as they imagined, a free government for their country, thought that ſpeculative opinions were not to be left entirely without reſtraint, and the laſt legacy they left to their ſucceſſors was a decree againſt the clubs, connected by aſſociation and affiliation. The decree had never been executed, and ſince, the country had been under the direction of thoſe very clubs. The priſoner could not plead that he was a man deluded. He ſigned all the papers, and to him all the letters were addreſſed. He was privy to all the proceedings of the Secret Committee, and perhaps carried on a correſpondence of his own, which he never communicated to the committee. His connection with Tooke, Margarot and Skirving, appeared very myſterious. None but the priſoner, Margarot and Skirving, ſeemed to have known any thing in the firſt inſtance of the intention to ſend delegates to the convention at Edinburgh.

The Solicitor General then entered into a long and elaborate argument on the law of treaſon, which he read from his notes.

He proceeded to maintain, that a convention in any ſtate, being a convention of the whole people, muſt neceſſarily become a Sovereign Power, and therefore that the King muſt ſubmit to it or be in danger, and it mattered not that the parties did not intend to depoſe him for life; for to depoſe him for one day, or for one hour, was the ſame thing in point of law as that of depoſing him for life; and the ſteps the priſoner had been engaged in, led neceſſarily to that end, and therefore it was clearly treaſon. He then gave a hiſtory of the Revolution in France by the Convention; he ſaid, that the moment the French deprived the King of his power of negativing the proceedings of the aſſembly, he was then depoſed. He then gave an account of all the addreſſes preſented from the ſocieties of this Country to the National Convention, and the anſwer which the Preſident gave to them. He began with "Generous Republicans." This, he ſaid, was clearly underſtood by the preſident of the French Convention to mean, that theſe perſons wiſhed to eſtabliſh a Republican form of Government in this country, and he had no doubt they did. The acts they did on this occaſion, he ſaid, he had no doubt whatever to be treaſon. He ſaid he would now proceed to another head of the ſubject.

Lord Chief Juſtice Eyre here ſaid, Mr. Solicitor General, if you have come to the end of this head, we had better adjourn; for no human powers would be able to go on, ſo as to take up the matter after you have done. We ſhall loſe no time then by ſtopping here for to-night.

It was half paſt twelve o'clock.—Adjourned to eight next morning.

SEVENTH DAY.

Tuesday, November 4.

At nine o'clock, Mr. Solicitor General resumed his argument where he had stopt the night before.—He had brought to the recollection of the Jury the steps that had been taken by these Societies in sending Joel Barlow and John Frost to Paris, with an address to the Legislative Assembly. He had pointed out the strong and unequivocal language they had used on that occasion, which the Counsel for the Prisoner had not even attempted to explain away; and he had drawn their attention to the answer of the Assembly, who seemed perfectly to know their character and their views—for the President addressed them by the title of Republicans and Brethren, and hoped that they should soon have to send an address of felicitation to the National Convention of regenerated England. That these things were most important in the consideration of the present case no man could doubt, since it went, among other things, to shew the character, views, and objects of these Societies. They evidently went to prove that their uniform and sole intention was to overturn our happy Constitution, root and branch, and to establish in its room that anarchy which at least had not made the happiness of regenerated France. He next adverted to a letter sent to the Corresponding Society from a Club at Stockport, calling themselves the Friends of Universal Peace and the "Rights of Man"—for these Societies indulging in the most romantic views, and warmed by the wildest enthusiasm, formed to themselves the imagination of universal peace. If they would attend to what they meant by universal peace they would find it to be a peace obtained by a general representative system, which would fraternize the whole world, and make the interests of the governors and governed so inseparable that no grievances could exist but would be immediately redressed. The circumstance of this and other letters not being commented on by the learned and ingenious Gentlemen who conducted the defence, must be a decisive proof, amounting to conviction, that they were conscious no defence could be offered. They should recollect that they were Gentlemen of great talents and great knowledge; that the last Gentleman who addressed them, though he had not the ornamental part of oratory in such high perfection as some others might, yet possessed talents, and knowledge in a very considerable degree, so considerable, as to entitle him to the character of one of the most eminent advocates. It was not then for want of talent, for want of attention, or of industry that no remarks had been offered them on this subject, but because the Learned Gentlemen had no ground on which they could stand.

He next desired they would pay attention to the letter from Norwich, which letter had been made the subject of debate in the

Corresponding

Correſponding Society: this letter contained expreſſions which merit ſpecial notice, as containing a great deal connected with the cauſe they had to determine. It enquires whether the object of the Societies be a Reform upon the plan of the Duke of Richmond only, or whether their deſign was to rip up Monarchy by the roots, and eſtabliſh Democracy in its place. They ſay the letters from Sheffield ſeem to be obſcure, at firſt they ſeem to intend abiding by the Duke's plan, and afterwards are contented with a moderate Reform, in concert with the Friends of the People.

The People at Mancheſter, by addreſſing Paine, ſeem to wiſh for a Democracy; here he obſerved, that they had been found fault with for attributing this intention to the Priſoner, from his Addreſs to Paine, when one of their own Societies had put the ſame interpretation on a ſimilar Addreſs. This Letter was read to the Society, and inſtead of anſwering ſo monſtrous a propoſal as that of ripping up Monarchy by the roots with indignation, they had debated on the Letter with a ſort of temper highly inconſiſtent with their profeſſions of regard to the Conſtitution.

The Jury ought to notice the anſwer, which does not mention with any degree of reſentment ſuch indecent and traitorous expreſſions, but ſays upon that head, that it is the advice of the Society that they ſhould not diſpute amongſt themſelves upon Monarchy, Democracy, or Religion. The Priſoner, therefore, when he only converſed on the expediency of their being contented with the Duke of Richmond's Plan, only followed the advice he had given to others of not diſputing upon the Monarchy.—

The Society approved of the French Convention, this he contended was good evidence of their intention to act in the ſame manner in England as the Convention had acted in France, and a clear proof of their determination to overturn the Conſtitution of their country. He ſaid their reſolution was to aſſemble a Convention in this country which was to be a National Convention, in order that they might have a more direct communication with the French, and might be fraterniſed with them. This Convention was to aſſume all the powers of Government. He begged they would attend to the conduct of the Society; they had conſpired to raiſe a very ſtrong party, in order more effectually to obtain the deteſtable purpoſe they had in view. So ſtrong was the ſimilarity between theſe People and the French, that he conceived the Jury could have no doubt in their minds of their intentions being the ſame; the reaſon of their not ſucceeding in this country, as well as in France, was, the different circumſtances of the two countries—all Government muſt depend upon the public opinion.

In France the Government had long loſt the favourable opinion of the public; it was far otherwiſe in this country, whoſe government was ſafely lodged in the hearts of the people, whoſe boaſt and whoſe comfort it had been for centuries. They would not heſitate to ſuppoſe that men who attempted to deſtroy this opinion intended to overthrow the Conſtitution, and involve the country in ruin.—After many obſervations on the various papers which were

in evidence before the Jury, he came to the complaints that had been made at various times on the abuſes of government.—No doubt, he ſaid, there were abuſes in the government of every country; he confeſſed there were many abuſes in the government of this; groſs and abominable abuſes, which every good man would wiſh to remedy, for whatever ſituation a perſon might hold, there was ſtill a higher obligation upon him; which was, to do all he legally could do to remove abuſes. In a religious view, what ſhould a man give in exchange for his Soul? In a political view, what ſhould a man give in exchange for his Liberty? riches, dignities, titles honours were nothing in compariſon with this object. But all this muſt be done without any treaſonable or ſeditious practices, and he maintained that the Members of theſe Societies had views very different from remedying theſe partial defects; he then proceeded to ſtate that it was evident from the different papers in evidence, that the French, and all thoſe who eſpouſed their cauſe in politics, acted upon a ſpirit of enthuſiaſm, as the Papiſts formerly did on points of religion; they acted on the idea that they alone were right, and that it was their duty to oppoſe all thoſe who differed from them in opinion, and they were continually employed in making converts; this was preciſely the caſe with the French in their politics; they proceeded on the ſame principle of intolerance in politics as the Papiſts did in religion, and theſe Societies were parties with the French. They had not been content with publiſhing their ſentiments, but they acted on them, for they had formed reſolutions, and acted on them—they had formed reſolutions, the direct tendency of which was to make this country a Republic, and that was their object; and they followed this up with a reſolution to accompliſh it. He then read many of the reſolutions of the Society, from time to time, and proceeded to give an account of the Conſtitution of France ſettled in 1789, which was certainly, at that time, more popular than any other Conſtitution in the world; it was a Conſtitution, however, in which the King had little, except that of a very large and enormous revenue, and ſome ornaments, that ſoon proved to be of but little uſe to him, and that Conſtitution fell becauſe the King had not power enough under it. Having made many obſervations on this ſubject, he proceeded to obſerve on what was called prejudices in favour of Government, and he maintained that the maſs of mankind muſt always judge of Government by prejudice, for as they muſt be employed almoſt the whole of their lives in procuring the neceſſaries of life, they had neither time nor abilities to form opinions for themſelves: they acted wiſely in doing this; for in this they followed the wiſdom and the experience of the moſt enlightened of mankind; and this would always be the caſe in every well-regulated State.—He then made many comments on the various pamphlets that had been written by different authors, and circulated by theſe Societies: all of them, he ſaid, in ſubſtance tended to inculcate the doctrine, that we had a bad form of Government, particularly they ſeemed to level againſt two branches of the Legiſlature; and they all ſeemed to inſinuate, that a full Repreſentation

tation of the People in the House of Commons would answer all proper purposes: this, he maintained, was a proof, amongst many other things, that their object was to form in this Country a Republican system of Government.—He proceeded next to give a history of the Jacobins of France; and maintained, that the conduct of those Societies was exactly similar to that of the Jacobins in France. [Here he read several of the Addresses, Letters, &c. of the Societies, in proof of his assertion.] He said, there could not be a doubt but that it was the intention of these persons to bring about a Republican form of Government in this Country: they had acted often on that idea, with a view of bringing it about; and that most clearly was High Treason.

He then proceeded to take notice of the proceedings of the London Corresponding Society on the 20th of January, 1794, J. Martin in the Chair, and maintained that they were all of the same nature as those he had already commented upon, and there could be no doubt whatever of the tendency of the proceedings from the beginning to the end; these proceedings he again read. The next point to be taken notice of was the Convention at Edinburgh, a Convention, the proceedings of which were a tissue of sedition, treason and rebellion. To illustrate this, he observed that if any man had proclaimed the Pretender at Edinburgh, at the time of the meeting of that Convention, that would clearly be an act of High Treason of itself. The declaration of a Republican form of Government being to be established, was a proclamation of rebellion, for that was their meaning, for they said it would be brought about. This proved that their minds were bent on Treason, and he believed there would not be two opinions on that circumstance among those who attended to their proceedings. He then gave an account of the toasts that had been given in a company of some of these Societies, and he observed that although the subject might be treated with levity, yet it should be recollected that such circumstances had always been deemed fit matter of evidence on State trials, and that for the best reasons, for men in convivial hours, in company with their Friends and Connections, were generally sincere, and it was in such situations that we were to find out what was passing in their minds, and that became material in the cause, for the intention of the party was the great thing to be decided upon. He would not repeat all these toasts, as they had been read in evidence, he should repeat only one of them.—"*All that is good in every Constitution, and may we never be superstitious enough to reverence in any that which is good for nothing.*" This, he maintained, was a very unworthy sentiment, for it tended to insinuate that we could not have any reverence for our own Constitution without superstition; this also proved what was passing in the minds of the company who had drank it—a contempt for the Constitution, and such persons must be deemed to have wicked intentions against the government of the country. It was apparent also from the Letters of the Prisoner that he had expressed his wishes for establishing a Republican form of Government; and he had expressed hopes of seeing a completion

tion of his wishes. By establishing a Republican form of Government, he must have meant to have hostile wishes with regard to the King—this was also a treasonable intention. The parties in this conspiracy entered into Resolutions together, and these Resolutions being examined, would be found to amount to a full proof that the intentions of the party were treasonable beyond all doubt. Another circumstance was to be taken notice of upon this trial. Temporary convenience made it necessary that a certain number of Hessian troops should be landed here; these Societies thought proper to enter into Resolutions upon that subject, condemning it as an unconstitutional measure; they declaimed against it, and clamoured; endeavoured to create an alarm. What was this intended to produce? Discontent in the minds of the People. For what purpose? To prepare the minds of the people to revolt. Having proceeded in this manner, until they thought the minds of the People were to a certain degree irritated, they then agreed to hold another Convention similar to that which met at Edinburgh. The place of its meeting was to be a secret. What was to be inferred from this? In his opinion it amounted to a demonstration that their intention was not honest: the whole Society, who bore a part in this transaction, must have a hostile intention to the Government of this country. The Letter of the Prisoner, of the 4th of May, 1794, in evidence before the Jury, was a proof of what he thought upon the subject; for it expressed explicitly what ideas he had formed, in which he had said he looked forward to the glorious reign of Liberty and Equality. He then proceeded to take notice of the proceedings at Sheffield, which, he said, clearly demonstrated the intentions of the parties to be treasonable. Mr. Yorke himself seemed to disapprove of the Convention at Edinburgh, and declined to attend it, not because he disapproved of the principle on which it was formed, but he thought they had not prepared the minds of the public to regard them in the character of a Convention of the People, and for want of that preliminary caution they failed to produce the effect for which their institution was intended. He then proceeded to take notice of Mr. Yorke's speech, at the Castle-hill, at Sheffield, and to comment on its inflammatory tendency, and maintained that this was another incident in furtherance of the plot which had been formed for creating in the minds of the people discontent and disaffection towards Government. He took notice also of the letter of Mr. Skirving, of the 5th of July, 1793, which explained clearly, the meaning of the parties to be hostile to Government; this Letter proved, he said, there was a civil discord in the minds of the parties, a long time before the Letter was written. With regard to the evidence of the knife that had made a part of this prosecution, he was ready to allow that was rather a trifling circumstance, and therefore the Jury, if they pleased, would put it out of their consideration; but the whole of the evidence taken together, he was confident, was conclusive upon the case now before the Jury. Sir John Mitford then

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ſaid, he felt himſelf ſo much exhauſted (having ſpoken for ſix hours, in which he went over all the evidence in the cauſe) that he was unable to ſay more, and was compelled to leave untouched many topics which he intended to ſubmit to the conſideration of the Jury. He could only ſay, that to the utmoſt of his power he had done his duty; and he truſted the Jury would do theirs. It was a hard taſk to preſs againſt a man in a cauſe, the event of which might be the determination of his life. They were to judge of him according to the evidence. If on the fulleſt inveſtigation of the cauſe, the Jury could find themſelves juſtified in acquitting the Priſoner, he knew they would do it with joy. If they found themſelves bound to give a contrary verdict, bitter as the caſe might be, they had a ſolemn duty to perform, and they muſt perform that duty. He had had a duty difficult to his feelings to perform; having gone through it as well as he could, he would not trouble them any longer.

Lord Chief Juſtice Eyre.—We are now in the 7th day of Trial; it comes to me to ſum up this great and momentous Cauſe. If it is expected or wiſhed on the part of the Priſoner, or on the part of the Proſecution, that the whole of the written evidence ſhould be repeated to the Jury, I will do it. Or would it be ſatisfactory to every body, that parole evidence only ſhould be ſummed up to the Jury, and leave it to your recollection, Gentlemen, on the written evidence; then I ſhall ſum up the oral teſtimony, together with ſuch parts of the written evidence as in the courſe of ſumming up ſhall appear to me to be neceſſary to have recourſe to. If it is the wiſh of the Priſoner, or the Counſel for the Priſoner; or, if it is inſiſted upon on the part of the proſecution: but certainly, if deſired on the part of the Priſoner, I ſhall not at all regret the expence of my time, or of the bodily fatigue for me perſonally to go through. I would willingly ſpare the Jury as much as poſſible, becauſe their labour has been infinite. If I were to go through the whole of the written evidence, I am afraid it would only load them with an imperfect recollection of a maſs of evidence, which would make them the leſs able to comprehend or underſtand that part of the evidence which appears to me to be material.

Attorney General—I cannot better conſult the public benefit than to leave the whole to the execution of that duty which reſides in the Court.

Mr. Erskine—My Lord, if you pleaſe, I will conſult with the Priſoner himſelf?—The Court conſenting, Mr. Erſkine went to the Priſoner at the Bar, and, having converſed with him, Mr. Erſkine returned, and ſaid that his client, confiding in the juſtice of the Court, had acquieſced in what his Lordſhip had ſtated.

The Chief Juſtice ſaid, as this was the caſe, he ſhould take that courſe, deſiring it to be underſtood, that if there was any thing that he ſhould not ſtate accurately, the Counſel for the Priſoner would be ſo good as to remind him of it. He wiſhed the Counſel on both ſides to underſtand this, and particularly the Counſel for the

the Prisoner. And that they would put him in mind of any thing that was material, if he should happen to omit it.

The Court and Jury then withdrew for an hour for refreshment.

Chief Justice Baron Eyre proceeded to sum up the evidence.—Gentlemen of the Jury, this Prisoner stands indicted for High Treason, in compassing and imagining the King's death. The Indictment contains nine counts or overt-acts. Of these are, first—conspiring to levy war against the King—secondly, preparing arms for that purpose. Three others are, first—conspiring to subvert the Government—secondly, sending letters, and preparing arms for that object. The four other overt-acts relate to the assembling of a Convention, the first of which is—concerting to call a Convention—the second, publishing books, letters, and pamphlets, in order to induce his Majesty's subjects to send Deputies to the same Convention—the third, meeting, consulting, and deliberating how, when, and where this Convention was to be held—the fourth, the appointing Jeremiah Joyce, John Augustus Bonney, &c. to meet and to co-operate towards the calling and assembling such Convention. You will attend only to the evidence necessary for establishing one of these acts; the general effect of the whole will come afterwards to be considered. The Chief Justice then went on to sum up the evidence in the order in which it had been brought forward; and began with adverting to the Witnesses from Sheffield, Camage and Broomhead. In the course of his statement, he ordered the Clerk to read to the Jury the Address to the People, and the Petition to his Majesty, which had been voted on the Castle-hill. As to the general libellous tendency of the address, he remarked that it was not very much to the purpose. There was one expression in the Petition which deserved to be remarked; mention is there made of "the impending storm," but what was the application to be given to this phrase, taken along with the date, was matter of fit consideration for the Jury. The whole of this printed paper had been very much relied on by both sides, and had received very different constructions from the Counsel for the Prosecution, and the Counsel for the Prisoner. Its importance arose not so much from the other extravagances which it contained, as from one Resolution, "That they would petition Parliament no more." It was evident, therefore, that they meant to take some other course in order to obtain their object. What that other course was, it remained for the Jury, taking it in the chain of evidence along with the time at which the Societies had in agitation their plan of a Convention, to determine. The next witness to whom he adverted was Henry Alexander, whose testimony, from the manner in which it was given, was not entitled to much credit, and upon which indeed nothing material depended. All that could be gathered from him was, that he had been present at a meeting where Yorke, who was then on the eve of going abroad, talked extravagantly. Thomas Whitehall confirmed nothing. The testimony of the next witness, George Widdison, suggested one remark. This was the first Witness who had talked of a

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Reform of Parliament, and ſtated his ſentiments upon the ſubject, which he profeſſed to have borrowed from thoſe of the Duke of Richmond. And this ought to afford an important leſſon to all men of rank and property, how they committed their ſentiments to the public upon ſuch ſubjects, ſince they there gave to others the power of diſperſing them to an unlimited extent, and hazard the miſchief that might be produced by their falling into the hands of thoſe who were either not qualified to underſtand them, or not diſpoſed to draw from them proper concluſions. Henry Hill, who was next examined, among other things ſtated, that there were ten thouſand perſons preſent at the meeting on the Caſtle Hill, at Sheffield, who expreſſed their approbation of the proceedings which many of them could not hear, and this no doubt was the way in which very frequently the approbation of ſo great a multitude was obtained to proceedings with which they were entirely unacquainted, or which, if they knew, they were not qualified to underſtand. The Witneſs knew not that the Motion for a Petition to Parliament had previouſly been agreed to be rejected by the Junto, which gives one an excellent idea of what ſort of a thing a debate is conducted in ſuch an aſſembly. John Edwards proved that he had received from Baxter that infamous paper "*The Guillotine*," which he ordered the Clerk to read. This, he ſaid, was a moſt infamous and deteſtable paper. The alluſion contained in it was too obvious to require to be pointed out. But whether it ought at all to be interwoven with the Indictment, or allowed to have any weight in the charges againſt the Priſoner, was for the Jury to conſider. The Witneſs did not think that Hardy had ever ſeen the paper, or that if he had ſeen it, he would have approved of its contents. One material circumſtance which appeared from the evidence of this witneſs was, that Hardy had received the letter from Sheffield relative to the pikes, and had ſo far acted upon it as to have communicated to the witneſs the direction where he might furniſh himſelf. The next witneſs, Samuel Williams, ſpoke only to the ſubject of guns. He had given Hardy an order for boots and ſhoes, who in return had found cuſtomers for three or four of his guns; thus far the tranſaction was merely in the way of trade and mutual accommodation, and could reaſonably fix no imputation upon Hardy.—But it appeared afterwards that Hardy had recommended him to Franklo's Aſſociation. The private and clandeſtine way in which this Aſſociation met to exerciſe, and the manner in which they ſhifted about from one place to another, warranted at leaſt a ſuſpicion, that they were conſcious that they were engaged in no good purpoſe. From this recommendation, it was evident that the nature of this aſſociation was not unknown to Hardy; but what were their deſigns; how far the Priſoner might be implicated in them, were queſtions fit for the conſideration of the Jury. Edward Goſling had ſtated an expreſſion to have taken place in the Society, which was certainly a very ſtrong one, "that they would arm to ſupport their Convention as the French had done." If the Convention, which it had been ſo much contended was to have met

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in a legal and peaceable manner, were to have been supported in their proceedings by an armed force, it gave indeed a new complexion to the business.—At the same time it was to be recollected what degree of credit was due to a witness of this sort, who was professedly employed as a spy, and whose character was by no means the most unexceptionable; were there not objections to his credit, his testimony would be very important indeed, as it would serve to mark a determined purpose against the King and his family. He had ascribed to Baxter, language so very imprudent, as could scarcely have been supposed to be used. His evidence was to be received with great caution. John Groves was a Witness, whose veracity was still more directly impeached. The Chief Justice ordered a letter from Stockport to be read, dated 5th January, 1794, the whole of which he affirmed to be inflammatory, but particularly the last paragraph. This was followed by reading a song full of seditious matter, which had been found among Hardy's papers. The Chief Justice observed that it had very fairly been taken notice of by the Counsel for the Prisoner, that he, being a Secretary of a Society, was exposed to receive all sorts of papers, and could not be responsible for their contents. The circumstance of improper papers being found in his possession, might only afford an indication of imprudence, and it remained for the Jury to determine how far that, taken in connection with other circumstances, ought to attach a charge of criminality. The Chief Justice then proceeded to remark on the evidence of Lynam, and the evidence brought from Scotland, relative to the conspiracy of Watt and Downie, from any share in which he seemed to consider the Prisoner as completely exculpated. He then adverted to the papers found in the possession of Martin and Thelwall, which, whether they were allowed to affect the Prisoner or not, proved at least the existence of very dangerous designs, and that the minds of some of those with whom it was connected, were infected with a degree of violence, the probable effects of which he shuddered to contemplate, and with a wickedness which it was almost impossible to believe. He then went over the witnesses that had been brought to prove the virtues of the private character, and the moderation of the political sentiments of the Prisoner, shortly remarking on the evidence that had been given by each.

The Chief Justice having gone through all the Evidence, said he should be very glad to go on with what he had to say to the Jury on the subject, but as what he had to say must necessarily run into an inconvenient length both for them and for himself, and as he was so much exhausted, he must trouble them to attend to-morrow, and then he hoped to be able, in a few hours, to dismiss them, requesting their attendance at nine o'clock.

The Court then adjourned at half after eleven o'clock.

EIGHTH

EIGHTH DAY.

OLD BAILEY, WEDNESDAY, NOV. 5.

About a quarter after nine o'clock in the morning the Court was formed.

Chief Baron EYRE—" Gentlemen of the Jury, laſt night, at a late hour, I left off, after having recapitulated a part of the evidence that has been laid before you. I had ſtated to you all the parole evidence, except certain parts of it, which was agreed to be then omitted.

" I may now venture to ſay to you, that this great and momentous cauſe between the King and the Priſoner at the Bar, is at length brought to a point; and it muſt be a great ſatisfaction to you, a great ſatisfaction to me, and to every honeſt man, that this cauſe has been happily ſo conducted, and ſo proceeded upon, with patience and with temper—If it is poſſible to diſcover a cauſe which requires a long and laborious inveſtigation, ſuch a cauſe is this. There is a proſpect that your minds are informed of the great magnitude of the ſubject, ſo as to enable you to pronounce a verdict which ſhall be ſatisfactory to your own minds, and which cannot but be ſatisfactory to the Country.

" Gentlemen, it is as much ſatisfaction to me as I can feel, in the exerciſe of ſo painful a duty, as that which is now caſt upon me, to reflect, that upon this occaſion there is, I think, no poſſible chance of our being in any difficulty in point of Law. The verdict in this caſe will not proceed, and you will receive no directions from me, that it is to proceed, upon any narrow or technical grounds. The overt-act charged is in ſubſtance, that the Priſoner at the Bar has, and others concerned with him, have conſpired to depoſe the King, and to ſubvert the Monarchy of this Country; and this charge is ſtated to be, and has always been conſidered, as an overt-act in compaſſing the death of the King. It is indeed a known preſumption of Law, acknowledged by the beſt writers upon the Law, that he who conſpires to depoſe the King, compaſſes and imagines the death of the King; and there is no queſtion, whether compaſſing and imagining the death of the King, was the primary intent previous to conſpiring to depoſe—For, if a conſpiracy muſt, in the nature of the thing, be ſubſequent to the compaſſing and imagining the death, it is not afterwards to be put to you as a queſtion, that the compaſſing and imagining requires proof that this conception was in the mind prior to the conception to depoſe the King; for, depoſing is of neceſſity the compaſſing and imagining his death; it is not a preſumption of Law only, it is a neceſſary, and inviolable preſumption of fact, ſo much ſo, that it is quite impoſſible to doubt it—Who can doubt that the natural perſon of the King is attacked by him who attempts to depoſe the King? Gentlemen, I ſhall waſte no

time in discussing such a question. Many, many hours were spent at the Bar in discussing it; but the fact broke down under the discussion, and it became at last impossible for the Gentlemen to set their faces to the idea of arguing, that to depose the King is not to compass and imagine his death. You will therefore now, Gentlemen, proceed to the examination of the facts as they are in evidence before you; and I most correctly agree with the Counsel for the Prisoner, that the case must be made out on *proveable ground*, or it is no case at all against the Prisoner; the proof must be plain and convincing. I avoid using the word *direct*, lest it should entangle you in a difficulty. The Law of the land is perfectly clear, that is, as legal and satisfactory as the most positive and direct proof that can be offered.

" Gentlemen, the short state of the case on the question may be said to be this—Whether the Prisoner at the Bar, together with others, has conspired to subvert the Monarchy of this Country? and whether they have set on foot the project of a Convention of the People, in order to effect that subversion. I have employed part of that time which ought to have been given to sleep, in endeavouring to take such a view of the evidence in this cause, as might enable me to lay the questions of fact, as they exist between the King and the Prisoner at the Bar, with some tolerable distinctness, before you, that you may see where the matter hinges. I do not know whether I have succeeded or not; but I do hope I shall be able to put before you such leading features of the cause, as may be of some use to you in forming your judgment.

" Gentlemen, it ought to be conceded to the Prisoner at the bar, that he had set out originally upon what is called the Duke of Richmond's plan of a Reform in Parliament; that is, to obtain universal suffrage and annual election in the Commons House of Parliament; and it is incumbent on those who comment on this, on the part of the prosecution, to satisfy you that the prisoner and others, with whom he is charged to have acted, whether irritated by their own enthusiasm, or from a wish to follow the example of France, have entered into a criminal pursuit of another object and of another nature; it is that which has made the consideration of this case necessary; and they must satisfy you, that it is the conduct of the prisoner, and others with whom he has acted, that has made the promulgation complained of so dangerous; and that it was the prisoner's and his confederates' intention, to establish a pure democracy, an establishment of a government from a full, free, and entire representation of the people of this country.

" Gentlemen, in the mass of evidence which has been laid before you, there are to be found parts that will not be extremely numerous, which will be fit to be submitted to your consideration, as grounds from whence the Prosecutors have drawn their conclusion, and by which they are to support their assertion that this departure from the original plan has taken place, and that the prisoner at the bar has entered into the criminal proceeding imputed to him. The parts of

of evidence, in this respect, which I shall refer to, are the passages which mark the conduct of these people from the year 1792, in which the prisoner at the bar is implicated, prior to their Address to the National Convention of France, all of which you have heard read, these you will now have to consider. Having carried your eyes over these, you will then have to go down to the British Convention at Edinburgh, and to the proceedings to the latter end of the year 1793; and then you will have to form your judgment on this project of a Convention, which was proceeded upon to a certain length, in the beginning of the year 1794. I think I may state to you, that it is clear, from the whole mass of evidence, that these Popular Societies had, in the beginning of the year 1792, so conducted themselves as to raise a question on themselves and their conduct some time before their Address. You will recollect it was proved that a Society, calling themselves the friends of the People, consisting of men of great character, high rank and property, and of great distinction in the Country, had refused to correspond with the London Corresponding Society; and some set of men had exhorted the Sheffield Society, but in vain, to make an explicit declaration on the Government of this Country, as by law established. These Popular Societies had, some of them, gone so far, that a Society at Stockport put the question directly to the London Corresponding Society, by letter to the Prisoner at the Bar, to know what they meant; and particularly what they meant with regard to the House of Lords, and still more particularly with regard to the Bishops, as the protectors of the established religion. Another Society, from Norwich, put the question still more distinctly—"Do you mean to rip up Monarchy by the roots?" but this could not fairly be against the Prisoner, Hardy, nor for him, much; for this was understood to be a snare for him—and therefore it put him upon his guard. He answered it, however: but one might have expected, that men who set out with saying, and now defend themselves by insisting, that they adopted the Duke of Richmond's plan with sincerity of heart, would most distinctly have avowed their plan in terms that would have admitted of no qualification; that they would have expressly avowed attachment to the King; that they would have expressly avowed their attachment to a Constitution of King, Lords, and Commons; that they would have left no man to doubt, and particularly those who put the question to them, because it might have some effect in governing the conduct of others upon the subject. What was the opinion they entertained, the answer to this requisition may perhaps enable you to discover; for that purpose, I shall desire that both the letter and the answer to it may be read to you, not that I think that any particular stress should be laid on the particular distinction between this letter and the answer. God forbid, Gentlemen, that a man's life should depend on a severe criticism upon words! I am against the idea of putting nice constructions, either upon the words or the actions of a man, when he stands in a Court of Justice on a trial for his life; but sometimes there are words,

words, and actions alſo, too explicit to admit of any doubt as to the real intention and meaning of the party; you, Gentlemen, will attend, if you pleaſe, to the requiſition and the anſwer, and ſee what it is they do in reality import, and particularly whether the anſwer is an explicit avowal of inviolable attachment to the Conſtitution of this Country, as by law eſtabliſhed, conſiſting of King, Lords, and Commons."

[The letter and anſwer were then read by the Officer of the Court.]

"Gentlemen, the critical obſervations that are to be made on the two letters, having been already made to you, you will judge of their proper force, I have no intention to repeat them, or to preſs my opinion upon you; ſuch as may preſs upon your own, you will diſpoſe of as ſhould be; if the diſtinction which I hinted at appears clear to you, that obſervation will have its due weight; if theſe papers require very nice and critical inveſtigation before you can determine upon them, I ſhould deſire you not to employ yourſelves upon that nicety, for I think you will then ſee the caſe in its great outline, which is the only way of making obſervations on ſuch a ſubject, and the only one I ſhall make; it is unneceſſary to make any other, becauſe this part of the ſubject is connected with the hiſtory of other tranſactions in this caſe. In this laſt letter you will ſee they inform the Society at Stockport, that they had reſolved on addreſſing the French National Convention; at this very time they inform the Society at Stockport of "a probable effect, which you will not fail to diſcover." We invite you to join us. What was the probable effect which theſe perſons will not fail to diſcover; and why did they not expreſsly avow to this Society the whole of their object in terms that could admit of no poſſible equivocation? theſe are the only obſervations that theſe circumſtances ſeem to me to afford, which apply to the evidence and the different comments you have heard. They ſay, they would addreſs the National Convention; they do in fact addreſs the Convention, and it is very apparent that the Society, of which Hardy is a Member, notified to the other Society, the Society for Conſtitutional Information, that they had reſolved ſo to addreſs that Convention, that Society having declared their approbation of the intention, they tranſmitted the Addreſs which they meant to ſend, and the reſult was, that the Society for Conſtitutional Information did not think fit to join in that Addreſs, but reſolved to addreſs the Convention ſeparately; and accordingly they did addreſs the Convention ſeparately. What their object was in preſenting theſe Addreſſes are only darkly alluded to in that Letter to the Society, at Stockport, but on what their object might be, I think it is fair to make this obſervation—that with reſpect to the Society to whom the London Correſponding Society ſent their Addreſs, if you could ſuppoſe they had meaſures to keep with this Society, at Stockport, or with any other Society; if you could ſuppoſe that they had viocnt men, whom it was their object to controul, or moderate men, whom

whom they wished to animate; or if they had any thing which they wished to conceal from those it was necessary for them to correspond with, so as to increase their number, they might adopt their language to their object, and submit to necessity on that occasion; yet in respect to the National Convention, they appear to be perfectly volunteers, to have no advantage to hope from making Converts, and therefore perfectly responsible for all they said, and all the consequences that followed, or might fall upon them. I believe, Gentlemen, it will be necessary to trouble you to hear these Addresses read, because the Prosecutors say, they admit of no explanation of these papers, except that the Authors of them are determined Republicans going out of their way to express what they feel of the cause of Republicanism. Now, Gentlemen, you will hear these Addresses and judge for yourselves, how far these persons and their labours merit the interpretation put upon them."

[The Officer then read the Addresses, and also the Speech delivered at the Bar of the National Convention, by Joel Barlow and John Frost, who had been deputed to take them.]

"Gentlemen, such was the language in which these Addresses were penned, upon which I ought to remark to you, that with regard to that language, and the conduct of those who delivered these Addresses, you will deliver the Prisoner, except where that language and that conduct are immediately connected with his own, and the other is not before you; but this, although not held by the Prisoner, nor by the persons who deputed Barlow and Frost to present these Addresses, you will find hereafter to affect him; because the language these persons have held was afterwards transmitted to the Society, of which Prisoner is a member; and you will find that that very Society has voted an unqualified approbation of their conduct. One thing more is to be observed in this point of the case, and ought to be attended to, which is, that there was little to do here with these Societies, until the National Convention of France had begun to act. Whether this goes to give any new idea on the Representation of the People in this country, of Annual Election and Universal Suffrage, arising out of the proceedings of the National Convention of France, or not, is for your judgment to determine; and you see that under this head, there is a felicitation to these Societies from the National Convention in France, approved by these Societies, and concluding with a hope, that there would soon be a National Convention in England. What was expected in England to be felicitated by the French Convention deserves, I think, your most serious attention and consideration.

"Gentlemen, I have stated to you that the only effect in this case that language can have, is on the adoption of it by the Prisoner at the Bar; it is truly observed by the Learned Gentlemen for the Prisoner, that if an Agent be employed by any body, it would be a cruel thing to call upon that person to be answerable for the acts of his Agent, if that Agent should exceed the authority of his employer: it would be so, but, if the actions are not to be

separated,

ſeparated, and the principal does approve of the conduct of his agent, then there is no hardſhip whatever in making the principal accountable for the conduct of the agent; and, in conſtruing the language of the agent to be language of the principal. Now I ſhall leave you, Gentlemen, to judge whether they, who brand the Members of this Society, of which the Priſoner at the Bar is a member, with being rank Republicans, are right; and whether theſe People were embarked in the cauſe of Republicaniſm or not;—it is an extremely important point to be ſettled, for the determination of it would relieve you at once from all further doubt in the caſe, in my opinion, for the whole matter muſt be of a very different complexion, as proceeding from determined Republicans, or coming from men acting as dutiful and loyal ſubjects to their Prince, as well as to the Conſtitution of their Country.

" Gentlemen, the next point for your conſideration is, that of the tranſactions of theſe Societies ſubſequent to the preſenting of the Addreſs to the National Convention; and that is proper to be attentively conſidered, in order to find out the deſigns of theſe parties, with regard to the National Convention they are ſaid to have intended to eſtabliſh in England: this is the immediate ſubject of this proſecution; and you will examine whether perſons who have taken this extraordinary ſtep intended it to be a meaſure founded on a principle of Democracy.—They are charged with this intent, and with having attempted to carry it into execution. Now, Gentlemen, you will examine whether they have redeemed themſelves from this imputation or not—whether they have cleared their character from the charge which the publication of theſe Addreſſes has brought upon them by their ſubſequent conduct. I ſtated to you, that, as far as voting an unqualified approbation of theſe proceedings, they certainly have not taken away that imputation; for, after the return of their own agent—after the comment upon it by the Society, and the probable effect of publiſhing theſe Addreſſes, and which ſeems to be directly alluded to by the Society of Stockport, they ſay, that probably a felicitation would come from France to a National Convention in England. After this they voted thanks, in the moſt unqualified manner, to the two moſt celebrated authors in the cauſe of Republicaniſm, Mr. Thomas Paine and Mr. Joel Barlow; to Mr. Paine for his " Rights of Man," and Mr. Barlow for his " Advice to the Privileged Orders." What the whole of theſe works contain, I will not affirm, becauſe I have not read them through; but I have read parts of them, and they contain the moſt direct attacks on the eſtabliſhment of the Monarchy of this Country, and that order in our ſociety, called the Houſe of Lords. Theſe Societies not only approve of theſe works, but they alſo diſperſe them all over the country, with a wonderful anxiety, and at a great expence. What for? What is this to do? Now the proſecutors in this cauſe ſay that theſe Societies are acting conſiſtently in all this, for it is their wiſh to make the People Republicans. That this conduct is perfectly conſiſtent in thoſe who wiſh to ſubvert the Government of this country, to

 deſtroy

destroy the Monarchy, and overturn the Constitution, is clear enough; but that it is acting very inconsistently for those who profess to be dutiful subjects to their King is equally clear; and the prosecutors ask, What explanation can they give of this? Now on the part of the defence it is observed, that there were parts of these works that went only in general to defend the Rights of Man in Society, without going into the establishment of this country; that to such parts of these works there could be no reasonable objection; and that they might be innocently disseminated, by honest men, and good subjects of this kingdom; I know not but the observation may be fair; but, Gentlemen, was it not the duty of honest men and good subjects, who thought fit to disseminate such works, to have taken some pains to separate the bad parts from the good ones, or to give the public some caution to make a separation for themselves; to tell the public that, while they were reading these general Rights of Man, to be careful not to imbibe principles against the Monarchy; and that when they read the Advice to the Privileged Orders, they were to take care not to understand them to be against the Privileged Orders of this Country. Such, I think, should have been the conduct of good subjects. That this was not the conduct of these persons is most apparent; that this must have a great effect against the King, Government, and the Constitution of this Country, is most clear. How much of this effect they intended, I will leave to your consideration; only this is clear, there is nothing in these publications that can serve to remove any prejudice against the Prisoner.

"Another thing is to be noticed here, which is the abundance of general publications, all tending to produce the alienation of the country from the King, stating that grievances exist in this country to a prodigious degree. Gentlemen, grievances may, and will exist, in all countries; and that there are some grievances in this country may be true; but dutiful and good subjects, when they wish to reform these, will take care not to hazard the overthrow of the Government itself in endeavouring to redress a few grievances. These are the transactions, Gentlemen, at the early part of the year 1793, on which the prosecutors rely, as making out the spirit of disaffection and Republicanism, which this prosecution complains of, against these men, and as evidence of a trying, on their part, to prepare men's minds for what they call a Radical Reform, being an alteration in the whole government of the country. It appears, Gentlemen, that it was in the course of the summer of that year, that the idea of a Convention to be held in Scotland originated; and they say for the prosecution, certainly not without colour, that it had its origin with the Prisoner at the bar; for they say it was in a letter from the Prisoner to Skirving in Edinburgh, that the measure was first recommended; and that it was adopted, and agreed, that Popular Societies should be held there, and that a Convention should begin in Scotland; you will now hear that letter read.

[Here Mr. Hardy's Letter to Mr. Skirving, dated the 17th of May, 1793, was read.]

 "Gentlemen,

"Gentlemen, there is a particular expreſſion in that letter, which I wiſh you to bear in your minds throughout. You would, I dare ſay, aſk for the anſwer; pray attend to it, becauſe that anſwer is charged by the Proſecution to have a great deal of matter in it, tending to explain the forming of a National Convention, and alſo what was to be the great object of it.

[The Anſwer was then read, dated the 25th of May, 1793.]

"Gentlemen, a part of this Letter deſerves the moſt ſerious attention. The writer ſays, "Let us begin in earneſt to make up our minds, relative to the extent of Reform, which we ought to ſeek. Be prepared to juſtify it, and to controvert objections. Let us model the whole in the public mind. *Let us provide every ſtake and ſtay* which we would erect; ſo that when the tabernacles of oppreſſion, in the palaces of ambition, are broken down, under the madneſs and folly of their ſupporters, we may then, without anarchy and all dangerous delay, erect at once our tabernacle of Righteouſneſs." Let us provide—provide for themſelves.—What do theſe words mean? What lurks behind them? If our Government is to continue as it is, the people can have no cauſe to provide for themſelves. But if the Government is to be ſubverted, then indeed it would be a great misfortune if ſome ſet of people could not commune with regular organization, without which anarchy muſt enſue. What do theſe words mean? Are they right on the part of the proſecution, when they ſay one circumſtance may ariſe from this—the deſtruction of the Government of the country—and the ſame body of men ſhould be erected inſtead of that government? or do they only mean a Reform in Parliament?—and the people ſhould know what they mean by that letter in a conſtitutional form. Gentlemen, this is an expoſition of theſe doctrines of a Convention, coming from a confidential friend, and communicated to the Priſoner at the bar; and having a direct appeal to him—and, Gentlemen, it is of the utmoſt importance to ſee they have not been ſurpriſed into this. For by all manner of communications, they have had an opportunity of recanting or explaining if they pleaſed. There was another expoſition, which I ſhall now ſtate to you, but which, under the particular circumſtances of the caſe, I cannot think will preſs upon the Priſoner—I mean the ſpeech of Barrere on the ſubject of a National Convention. I do not think it is evidence againſt the Priſoner, there being no proof that he knew of it. Another circumſtance I ought to notice aroſe out of part of the Addreſs of the Priſoner's Counſel to you, in which he took pains to ſay, that a National Convention is conſiſtent with an eſtabliſhed Government; that it was the authority of the People at large, who might lawfully, rightly, and conſiſtently with the eſtabliſhed Governments of all countries meet, on all neceſſary occaſions. This was not ſupported by any argument or authority in the whole courſe of the propoſition. The leading Counſel for the Priſoner, to whom I am always deſirous of paying particular attention, has ſaid that the People have a right to alter their government. Such a propoſition, under

under certain circumſtances, may be true; nobody would think of contradicting it formally; but why it ſhould be introduced in a Court of Juſtice, ſworn to adminiſter law, I cannot ſee. I did not interrupt the Counſel when he introduced this propoſition, becauſe I did not wiſh to ſtop or diſconcert him in the chain of his argument, but having paſſed it by upon that occaſion, I feel it my duty to notice it now. As to the ſpeeches in the French Convention, of Barrere, or any other perſons, I do not ſee that they can have much weight in this caſe. They were ordered to be entered on the books of the ſociety, but it does not appear that any tranſlation was made of them, till they were given in evidence here; but with regard to the Letter, it is his own correſpondence; he had an opportunity of weighing it, of rejecting any part of it, of collecting the ideas contained in it, and of taking care it ſhould not be ſet on foot.

"Gentlemen, on the 5th of October, in that year, the Priſoner wrote a Letter to Skirving, in anſwer to a letter of the 2d of October, but that Letter is not in evidence; in the firſt of theſe letters I have now mentioned, the Priſoner ſpoke of himſelf to Skirving about the Plan of a Convention in Scotland, and recommended to Skirving to write to him, Hardy, as Secretary to this Society, recommending the plan of ſending Delegates to Scotland, but not to ſay that Hardy projected the Plan. Here the Priſoner appears in a new character, and he does not appear to be an inactive Member, independent of being a Secretary. It was ſaid he was a ſimple, harmleſs man, who did nothing but as he was directed; but here he ſeems to have had ſome ideas of his own, and ſeems to have known how to manage them pretty dexterouſly; he ſeems here to be a principal, acting a good deal with the ſpirit of intrigue and duplicity. After this, the Society choſe two very able men as their delegates to the Convention in Scotland, Margarot and Gerald, they ſat in this Convention until they were diſperſed by authority. What they would have done if left to themſelves, can only be matter of conjecture, and in forming your minds on that Convention, you will look back to the ſpirit of it, and call to your memory the leading features of that Convention. It is ſaid on the part of the Priſoner, that theſe Societies, in ſending theſe Delegates to this Convention, had only in view a Parliamentary Reform in the Commons Houſe, that ſuch was their only object; that theſe Delegates only met to conſider of the beſt way of applying to Parliament for Reform—Now, with reſpect, there had been an application to Parliament, and an Honourable Gentleman (Mr Grey) had brought it forward; of the truth of their having applied to Parliament no man will doubt; but the ſincerity of that application every man will doubt, as to avoid the application was one of the purpoſes of the Meeting. They ſat nine or ten days; a motion was made to petition Parliament; this was negatived by the order of the day; they did every thing which was intended to be the purpoſe of the meeting; they cloſely imitated the manner of the French Convention; they had their ſections, &c. The appearance they made was very

alarming; they opened and shut their business, proceedings every day, with a solemn prayer; all the forms of business without real business—Committees of Finance, and other subjects as if they were a real legislature. I think, Gentlemen, that this is a subject worthy of grave consideration. On the 10th day, and the last of their meeting, was the first on which we had an idea of the intended British Convention; this might have been an alarming epoch. What would have happened if they had not been dispersed, no man will venture to say; supposing any thing had happened to give the public an opinion of them, that very body of men might this day be the Government of this country. They were however dispersed; the consequence of which has been, that proceedings have taken place upon them, which it would ill become me to make any observations upon, except that occasion was taken to complain of these proceedings as a great grievance; and the Prisoner and his Society have taken as much pains as men could take to irritate the public mind against the proceedings as much as possible.

"Gentlemen, the immediate consequence of the reflections which were dispersed on the subject of the Prisoner's proceedings, was the plan of the British Convention to be held in England, which brings us to a subject which requires your most serious attention; you will consider seriously the plan itself, how it was introduced, and what steps were taken to recommend it to the public. You will judge, Gentlemen, whether you think it possible that the Prisoner should be sincere, after all this, for a Parliamentary Reform, as he professed, upon the plan of the Duke of Richmond; and this leads me to another part of the case, and you may judge from the contents of the following paper:

The Chief Justice then desired the Clerk to read an address from the London Corresponding Society to the People of Great Britain and Ireland, dated from the Globe Tavern, Strand, January 20, 1794, which accordingly being done, he continued—

"Gentlemen, you have heard the contents of this paper. It contains an express reference to their intention of calling a general Convention of the People. It was voted and published at a time when the idea of such a Convention was in agitation. From the contents of that paper you will judge between the Crown and the Prisoner, whether it really was intended, as it professes, to procure a fair, free and full representation of the People in the House of Commons, and under the present Constitution, or whether it was not rather brought forward as a manifesto to excite the People to overturn the Government, and direct them to the use of a Convention for that purpose. They then proceeded to consult about the means of calling this Convention, in consequence of which a communication took place between the Corresponding Society, and the Society for Constitutional Information. The two Societies appointed a junto, in order to attend to this object, who came to a resolution, expressed in somewhat more moderate language than the former, and which I will now desire to be read."

The

The Attorney General. "Will not your Lordship also desire the application from the Corresponding Society, for a junction of the two Societies, to be read. I consider it as extremely material."

Chief Justice Eyre. "It has already been repeatedly read in the course of the evidence; the proceedings have already extended to so great a length, that I do not in the present stage wish to trouble the Jury, with any thing except what is absolutely necessary."

[The paper being read, the Chief Justice proceeded]—

"You see that here they adopt the comparatively moderate language of calling a Convention for the purpose of taking into consideration the proper methods of obtaining a full and fair Representation of the People. It certainly never was too late to have retracted any part of that rashness and violence of which they might have been guilty. If they, thinking that they had been too violent in their expressions, or extravagant in their sentiments, had come to this resolution with a view to remedy the fault of their former proceedings, that consideration would no doubt have its due weight. But even in this resolution, we find no declaration that they sought only a reform in the House of Commons, and that they had no intention against the authority of the House of Lords, or the power of the Crown. But on the contrary, we find that on the 14th of April, the Corresponding Society published a declaration, and circulated it in different parts of the Kingdom. This declaration is intended to prepare the minds of the People for the arrival of that violent crisis, in which a Convention must immediately be summoned, and in which they would necessarily be called upon to act. If instead, then, of intending to bring things back, or to remedy the effects of their former violence, we find them advancing in the same career, and hastening by the same means to the accomplishment of their object, what must be the conclusion. Instead of coming forward with a declaration of their loyalty to the Throne, or their respect for the House of Lords, in order to do away the impression of their former proceedings, and remove all suspicion and ambiguity with respect to their future intentions, we find them coming forward with another Manifesto, this Manifesto comes forward in a still more questionable shape than the former, as it is intended to carry along with it the appearance of great force, and to shew that they are ready, if it shall be necessary, to act in support of their former resolutions. I allude to the proceedings that took place at Chalk Farm, on the 14th April, 1794. These proceedings commenced with reading a letter that had been sent by the Corresponding Society to the Friends of the People, and the answer, which it had received from that Society. They then came to their own resolutions."—He then desired the Clerk to read the account of the proceedings at Chalk Farm, which is printed in the First Report from the Committee of Secrecy.

After these resolutions had been read, he continued.—"One cannot hear this paper read without being astonished that men should be

be so blinded by enthusiasm, or any other affection, as not to see the consequences to which they exposed themselves by this violent conduct, and that while they were passing these resolutions, they had the sword of the law hanging over their heads by a single thread. But it had been argued that the publicity of these proceedings implied a consciousness, on their part, that they were perfectly innocent and legal. What! did they not see something extremely criminal in publishing to 200,000 people (the number of copies of those Resolutions, which they ordered to be printed) that the social compact between the English Nation and their Governor was to be considered as dissolved; and that the safety of the People was the supreme, and in cases of necessity, the only law? What could be implied by this Resolution, but that they looked forward to the framing of another Government to be erected on the ruins of the present establishment? In their 8th and 10th resolutions, they glance, and that not in an indirect manner, to the House of Lords, as not entitled to the respect of the nation.

" The question still recurs, What did they mean to do by this proposed Convention? On the part of the Prisoner, it is urged that they intended to meet in a legal and peaceable manner, in order to take into consideration the most proper method of procuring a fair and full representation of the People in the House of Commons. Whether this can be inferred, after all the steps they had previously taken, and all the Addresses they had published to the nation, must remain for your decision. Another thing to be taken into consideration was what respected the Society in Sheffield. This Society was connected with the Society for Constitutional Information, and the Corresponding Society in London. It was extremely numerous; the persons assembled at one time on the Castle-Hill had been stated to amount to ten thousand. These came to certain resolutions, to which they were brought by one Yorke, not a native of Sheffield, but a Member of the Corresponding Society of London, who had got down there, in what particular character does not appear. It is, however, some consolation to attend to the manner in which these resolutions were brought about. Though the names of a great number of persons were signed to them, but few of these can be considered as having really assented to them in their minds, or adopted them as principles, upon which they were to act. And though ten thousand were stated to have been present, perhaps not above two hundred were concerned in planning and carrying these resolutions. The motion to petition Parliament was previously concerted to be over-ruled by the Junto of four. But what attached to the Societies the criminality of these resolutions was their subsequent publication and promulgation. It has indeed been fairly put on the part of the Prisoner, that the resolution that they would no longer petition Parliament, does not imply that they might not petition in a larger body, when they might think that they would have a greater chance of a favourable reception. But what is the reason assigned on these Sheffield Resolutions, why they were no longer to petition?——" Because they will not petition

tion a body who are not their representatives." This is a reason, which must equally apply at all times against petitioning the House of Commons, while it continues on its present footing. The nature then of the proposed Convention is to be gathered from the language of those Addresses. And from those it appears to have been intended to be a Convention in order to concert the means of establishing a Representative Government of the People. There is one piece of parole evidence, which it is extremely material to attend to. It occurred in the examination of Lynam. He was present at a meeting of the Society where Bell asked, "Whether it was intended to introduce the same laws into this country as in France?" Margarot answered, "No doubt;" all the others were silent. Hardy was present at this meeting. There is also parole evidence, so far as it goes, of a certain preparation of arms in order to support the Convention. One witness, but not of the best credit, states that it was said that these arms were provided in order to defend the Convention. On this head, however, the parole evidence cuts two ways, for different witnesses, from the Societies, contend that these arms were procured merely in order to defend themselves against illegal attack. Much has been insisted on the exhortations to peaceable and orderly conduct contained in the Addresses, published with a view to the meeting of the Convention. But it is to be recollected that the character of such a Convention as was proposed, is perfectly consistent with inculcating peace and good order, as their object was in the measures which they should adopt with respect to the Government, to carry the public mind so forcibly along with them as to render all resistance vain and useless.

"The same Witness, undoubtedly not entitled to much credit, mentioned that it was always expected by the Society, that a struggle would be necessary in order to accomplish their object, and that they looked forward to an actual rising in the country. This would amount to conspiring to depose the King by levying war in the kingdom—a clear overt-act of High Treason. And though the witness from whom it came was not entitled to much credit, yet so far as corroborated by the testimony of others, against whose character there is no objection, it is not without its weight.

"*Gentlemen of the Jury,*

"I have given you the charge along with the evidence, in order that you may be able to ascertain the amount of the whole facts, and see how far they go to establish what is laid in the Indictment. On the other hand, you are to attend with favour to the arguments urged, and the evidence brought forward in behalf of the Prisoner, and to weigh well whatever makes for the defence. The written evidence against him has not been attempted to be disputed, nor can it indeed be controverted. From that evidence it appears that the Prisoner was not merely a person who acted under the direction of others, and signed papers as Secretary, without adverting to their contents, or being able to comprehend their meaning, but that he was himself a principal in the transactions of those Societies, and a

designer,

designer, promoter, and inventor of many of the proceedings which have come out in evidence. He cannot therefore set up a defence upon any ground of that sort. The Counsel for the Prisoner attempted to vindicate the temper and views of the Sheffield Society, on the ground of the letters which they had written to the Friends of the People. But if these are taken along with their letter, dated 26th May, 1792, addressed to the Corresponding Society, it will then be perceived how far they were sincere in their first professions, or, if they really were sincere, how far they had afterwards adhered to them. The Prisoner's Counsel had also made several fair and weighty observations on the credit due to witnesses, who had introduced themselves into these Societies for the purpose of giving information of their proceedings, and on the subject matter of their testimony, particularly as it related to the preparation of arms. I have no hesitation to admit, that if the question of criminality depended solely on the proof brought with respect to arms, though there might be strong cause of suspicion, yet there would not be sufficient ground to impute to those Societies all that mischief, which might, in the present instance, be apprehended to arise from their designs.—The Counsel for the defence state the Prisoner to be a plain, honest man, orderly in his demeanor, and moderate in his temper, having one great object strongly riveted on his mind, namely, a Reform of the Commons House of Parliament, upon the principles of Universal Suffrage and Annual Election. These principles, they contend, he borrowed from a work of the Duke of Richmond, in which they are inculcated, and that to carry these principles into effect all his measures were directed; that the very idea of a Convention is taken from the same work of his Grace, which certainly contains a strong allusion to the People meeting in a body in order to procure the object which he there recommends. The Prisoner, they alledge, conceived that a Petition to Parliament, coming from a large body, would have more weight, than Petitions from Individuals or smaller bodies, and that he had no intention to use a Convention for any other purpose than that which is above stated; that he had not the smallest idea, by means of that Convention, to interfere with the privileges of the House of Peers, or the power and dignity of the Crown. They contend, from the statement of the force, said to be prepared, that there could be no such intention as to overturn the Constitution; for if the means, as in all cases, are to be proportioned to the end, such an attempt, in the circumstances of these Societies, was not only highly improbable, but altogether impossible. They further argue, that if the Convention proposed to be assembled was of the same nature with the British Convention that had been already held at Edinburgh, it could not be treasonable, as some of the Delegates to that Convention had been tried and convicted only upon a charge of misdemeanor. If Treason, therefore, did not attach in the one instance, neither could it in the other; the crime of only concerting to hold a Convention, was certainly less than that of having actually held one; whatever, therefore, may be the

the inflammatory tendency of the papers, or whatever the violence of expressions adopted in them, still the guilt of those Societies, cannot amount to High Treason. The Prisoner has appealed to several members of the Societies with whom he was connected, for the soundness of his principles and of their own,—their attachment to the established branches of the Constitution, and their intention to proceed towards their object in a legal and peaceable manner. A cloud of respectable Witnesses have come forward to his private character—to testify that he is a peaceable, sedate, orderly and religious man, having one great idea relative to a Reform of Parliament. It appears, also, from the evidence of Mr. Sheridan, that he made a proposition to him to give up all his papers and correspondence for the inspection of a Committee of the House of Commons—a circumstance, which would seem to imply a strong consciousness of innocent intentions. Mr. Francis has stated, that he waited on him with a Petition from his Society, addressed to the House of Commons, on the subject of a Parliamentary Reform, and mentions that his conduct on that occasion was such as was calculated, not only to impress him with a favourable opinion of his general character, but of the moderation of his political sentiments, and his intentions to follow them out in a peaceable manner. In alluding to the work of the Duke of Richmond, there is one circumstance which I forgot to mention. At the same time with that work there was brought forward in evidence by the Prisoner's Counsel, a copy of a Protest, signed by several Noble Lords, and stating the same sentiments with respect to the right of the People to meet, and deliberate on certain objects. This paper, falling into the hands of an ignorant man and an enthusiast, if ever it fell into the hands of a person of such a character, might, no doubt, have a tendency to mislead him, and dispose him to the prosecution of violent measures. But these pieces of evidence applied only to one part of the case. It certainly never would be imputed to that Noble Person, the Duke of Richmond and to the other Noble Lords, who signed the Protest, that they intended, by the publication of their sentiments, to overturn the established Government of the Country, and introduce in its stead a Democracy. It never could be contended that their views went so far as those which have been proved upon some of the Societies. I conceded to the Prisoner that he might, in the first instance, have set out with a sincere profession of the Duke of Richmond's principles, and a determined resolution to confine himself to the object of universal suffrage, but whether he has not departed from those principles, and gone beyond that object, is to be made out from the evidence, and is matter for you to determine. The reply goes to impeach the credit due to the evidence from the Members of the Sheffield Society. The character of those Members is in some degree implicated with that of the Prisoner; and it is to be considered what degree of weight ought to be given to the testimony of a man called upon to swear his own loyalty, and the sincerity of his attachment to the Constitution,

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more particularly if his conduct be ſuch as has been charged with reſpect to thoſe witneſſes, as to beget a ſuſpicion that he is actuated by very different ſentiments; in this caſe there is *proteſtatio contra factum*. His conduct is the reverſe of his ſentiments, and therefore juſtly affords ground for diſtruſt. The reply refers alſo to the written evidence as a proof of the duplicity of the Priſoner. One inſtance of this is his conduct with reſpect to Mr. Francis, upon whom he waited, in order to requeſt him to preſent a petition of his Society for a Parliamentary Reform, and whom he induced to believe that he was really anxious to obtain that object, though from different papers it appeared that he had no ſincere deſire for that purpoſe, but was only deſirous, by bringing forward this petition, to agitate the public mind on the ſubject. Another remark on the reply goes directly to his character; that though he was deſcribed as a ſedate, moderate, religious man, it was evident that he was ſtrongly tinctured with enthuſiaſm; a circumſtance which, notwithſtanding the other parts of his conduct, makes it ſtill highly probable that he might be concerned in the attempts charged againſt him. And an inſtance was quoted in the caſe of the Fifth Monarchy Men, where a charge of High Treaſon might be founded againſt them on the expreſs ground of their religion. It is to be remarked, that the particular acts done by this man, are not contradicted by any of his own witneſſes. They were certainly ſuch as are totally inconſiſtent with the idea of only effecting a Reform in the Commons Houſe of Parliament; they are ſuch as are conſiſtent with the other idea of ſubverting the eſtabliſhed Conſtitution, by introducing in its ſtead a Repreſentative Government of the People.

"*Gentlemen of the Jury*,

"Upon all this ſtatement, you are now to exerciſe your own judgment, and in doing ſo, you will pay no more attention to what I have ſaid, except ſo far as it may be ſupported by the facts of the caſe, and lead you to the principal points of the evidence brought forward, both for the Proſecution and for the Priſoner. The Jury are in no caſe bound to attend to any opinion except their own, in forming their deciſion on the general queſtion of guilt and innocence. Every verdict ought to be the Jury's own verdict, more particularly in a caſe of ſuch magnitude as the preſent, to which the eye of the public are turned, in order that the country may be ſatisfied that you, as you are bound by your oath, have made a true deliverance. I am ſorry to remark, that during the courſe of this trial, the dignity of a Court of Juſtice has, in conſequence of conduct that has taken place, both within and without doors, been in more inſtances than one, groſsly violated. What ſuch a conduct can mean, except from perſons who are deſirous to diſſolve all the ties of Government, and deſtroy all reverence for authority, I cannot poſſibly underſtand, and I truſt I ſhall not again witneſs a repetition of ſuch a conduct, either in this, or in any other caſe, in which the public juſtice may be called upon to determine.

"Gentlemen, you will now conſider of your verdict."

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The Jury, before withdrawing, asked for a copy of the Indictment.

CHIEF JUSTICE EYRE. "I see no objection to letting you have a copy of the Indictment, although it is not quite regular, provided it be done by consent of the parties."

No objection was made, and a copy of the Indictment was handed to the Jury.

CHIEF JUSTICE EYRE. "Gentlemen of the Jury, It is proper to inform you, that after you withdraw you can be allowed no refreshment. If you wish for any refreshment, now is the time to take it."

The JURY—"My Lord, we thank you, but we shall have occasion for no refreshment."

At half an hour past twelve o'clock, the Jury withdrew, and at half an hour past three, returned a verdict of

NOT GUILTY.

CHIEF JUSTICE EYRE thanked the Jury for the attention they had bestowed upon the trial.

Mr. Hardy then thanked the Jury for the Verdict they had given, both on behalf of himself, and on all his fellow-subjects.

Lord President.—"The prisoner must be discharged."

The populace, who, notwithstanding the wetness of the day, filled the streets adjacent to the Court-house, received the news of his acquittal with the loudest acclamations of joy. The Court was adjourned till Monday se'nnight, when we understand the trial of Mr. Horne Tooke is to commence.

Mr. Hardy's deportment through the whole of his arduous trial, has been distinguished by the most exemplary decorum; Firm, temperate, and tranquil, he shewed throughout the conscious rectitude of his heart. There was no agitation, no arrogance, no disdain in his manner; no apparent uneasiness of reflection on his past conduct, and no emotion of alarm for its consequences. When the Jury pronounced their verdict of—Not Guilty—he addressed them in acknowledgments of gratitude, for the attention they had paid to the long trial, and for the just verdict they had pronounced: but the words were drowned in the low, but universal noise of joy, that filled the Court.

He was immediately set at liberty, and having left the Court, Mr. Kirby, the keeper of Newgate, conveyed him through his house privately, but it was in vain for him to resist the impetuosity of his fellow citizens who surrounded the place; they drew him in a coach to his house in Piccadilly, making the tour of Pall-mall and St. James's-street,

He had been thus hurried along by the enthusiastic zeal of the multitude, and it was at length with difficulty that he was able to tell them that he was desirous of going to his brother-in-law, in Lancaster-court in the Strand. He was drawn thither, and having got out of the carriage, before he entered the house, he went into the church-yard of St. Martin, and was shewn to the grave of his Wife, from whose side he had been taken when first seized, and who had fallen under the shock. The multitude respected this feeling with a sympathy that did them credit. They kept at a distance, while his relation pointed out to him the grave.—After this affecting scene, he went into his brother's house, and in a short address thanked his Fellow-countrymen for the kind interest they had shewn in his favour, and he requested they would separate peaceably.

Nor were the people unmindful of those good and great advocates, Messrs. Erskine and Gibbs. Both those gentlemen continued for some time in Court, supposing that the people would disperse; but they were mistaken. As soon as they entered the carriage the horses were immediately taken out, and they were drawn to Mr. Erskine's house in Serjeant's Inn amidst the loudest huzzas.

After Mr. Erskine had alighted from his carriage, he appeared at the front window of his house, and silence having been with some difficulty obtained, addressed the populace to the following effect;

"Gentlemen,

"For several nights you have manifested your attachment to me by attending me home. You are all witnesses that, during that time, the fate of your dear countryman not having been decided upon by his Jury, I spoke to no man.—Had the verdict been other than it has been, whatever I might have thought, I should have continued my silence. But, Gentlemen, what I expected from Law and Justice, has happily taken place. A Jury of twelve good, honest, and independent men, have given a conscientious, an honest, and good verdict. Gentlemen, you have shewn your approbation of that verdict in an honest and lawful manner; and in such, I hope, every honest and just man will shew it. Gentlemen, to us (Mr. Gibbs being at the next window) you are unknown, but let me intreat you, now that you have shewn your approbation of the verdict, to go to your homes, and be happy; and thank God for what has passed.

Mr. Erskine then retired from the window, and the populace, after a few huzzas, retired with the exclamation of—"Erskine and Gibbs for ever."

ADDRESS

ADDRESS TO THE PUBLIC.

WITH a heart overflowing in ſenſibility and gratitude, I now ſit down to the moſt pleaſing taſk which I have experienced in the courſe of my life.—Little did I imagine that the feeble efforts I have made, in ſupport of that cauſe, which I deemed it my duty to promote to the utmoſt of my power, would have excited, in ſo great a degree, the moſt lively emotions of affectionate regard in the boſoms of thouſands, to whom I am unknown but by name—but ſo it has happened, and I feel myſelf labouring under a weight of obligation, which I am ardently anxious to diſcharge, as far as my ability will permit.

Untutored in any language but that of Truth, I proceed without fear of the attacks either of Prejudice or Malevolence, to pay the debt I owe, as far as I am able.

To Mr. ERSKINE and Mr. GIBBS, the two learned Counſel appointed for my defence, I beg permiſſion, in this public manner, to return my beſt and warmeſt acknowledgments. Any words in my power to uſe, would fall far ſhort of expreſſing what they TRULY DESERVE, or what I REALLY FEEL —I have, however, this animating reflection in my mind, that every defect in my powers of expreſſion to do them juſtice, is abundantly compenſated by the force and eloquence of their own reſpective exertions; and that their tranſcendant talents and integrity cannot fail to ſtand recorded on the minds of the preſent race only, but will receive additional luſtre in every progreſſive movement they ſhall make towards poſterity.

To the PUBLIC, whoſe Servant I have always been proud to acknowledge myſelf, I am equally at a loſs for words to expreſs the grateful ſenſations of my boſom. The feeling manner in which they have ſympathiſed with my ſufferings, while it gives a delight to my heart which no language can deſcribe, almoſt diſables me, from the overflowings of that ſource of ſenſibility, to perform my duty—but the ſoftneſs of nature gives way to the impetus of gratitude, and I beg leave to ſay to a generous Public,

BE PLEASED TO ACCEPT MY THANKS.

Acquitted by the Unanimous Voice of a Jury of my Country, from the Charge of a Crime at which my ſoul revolts, and my nature ſhudders, I find it impoſſible to expreſs my gratitude to THEM, in any degree adequate to what I feel—I muſt therefore entreat them, for a moment to ſuppoſe themſelves in my ſituation, and CONCEIVE what they would have ſaid to me, had I, in ſimilar circumſtances, been their Arbiter,

ter, and given the ſame deciſion in their behalf. I have no doubt but in the conſciouſneſs of the rectitude of their own hearts, they feel a far greater reward than any in the power of mortal man to beſtow—But what I can, I will—

I SINCERELY AND FERVENTLY THANK THEM.

Small indeed is the return for the preſervation of Life and Honour. It is only the grateful effuſion of a plain and a poor man; but it comes warm from the heart, and, like the Widow's Mite—is ALL I HAVE TO GIVE.

Reſtored to my Friends and Country, after an abſence of ſeveral months, in the courſe of which all my Family (except myſelf) have deſcended into the peaceful tomb, I find my buſineſs ruined, and I have the World to begin again. I therefore take this opportunity of informing my Friends in particular, and the Public in general, that I intend to reſume my occupation, and to ſupport myſelf, as heretofore, by honeſt induſtry. I have not yet been able to find an eligible ſituation for opening a ſhop, but as ſoon as I can accompliſh that, I ſhall take the liberty of making it known, and have no doubt of receiving that encouragement and ſupport which injured innocence never yet has failed to obtain, in this generous and liberal iſland.

Lancaſter-court, Strand,
November 11, 1794.

T. HARDY.

E.S.B.K.
1/11/41

THE

TRIAL

OF

JOHN HORNE TOOKE,

ON A CHARGE OF

HIGH TREASON.

CONTAINING

THE WHOLE OF THE PROCEEDINGS OF EACH DAY

AT THE

OLD-BAILEY,

INCLUDING THE EXAMINATIONS OF

LORD CAMDEN,
DUKE OF RICHMOND,
LORD FRED. CAMPBELL,
EARL STANHOPE,
MR. PITT, MR. FOX,
BISHOP OF GLOUCESTER,
MAJOR CARTWRIGHT,
MR. SHERIDAN, &c. &c.

WITH

CHIEF JUSTICE EYRE's CHARGE,

AND

MR. TOOKE's ADDRESS TO THE JURY.

TAKEN IN SHORT-HAND AT THE OLD BAILEY.

DUBLIN:

PRINTED BY P. BYRNE, 108, GRAFTON-STREET.

1794.

* An Authentic Copy of the Reports of the Committees of both Houses of Parliament, including all the Documents, Letters, and Papers, concerning the Prisoners, which have been produced in Evidence in this and Mr. Hardy's Trial, may be had at P. Byrne's, Price Two Shillings and Eightpence Halfpenny.

THE TRIAL OF JOHN HORNE TOOKE, Esq.

FIRST DAY.

MONDAY, NOVEMBER 17, 1794.

THE Court sat at eight o'clock in the morning, when all the Judges named in the Special Commission were present, except Mr. Justice Buller.

Counsel for the Crown.

Mr. Attorney General.
Mr. Solicitor General.
Mr. Serjeant Adair.
Mr. Bearcroft.
Mr. Bower.
Mr. Law.
Mr. Garrow.
Mr. Wood.
Mr. Percival.

Counsel for the prisoner (assigned by the Court.)

Hon. Thomas Erskine.
Mr. Gibbs.

Assisting Counsel.

Mr. Dampier.
Mr. Felix Vaughan.
Mr. Gurney.

Solicitor for the Crown.

Mr. White.

Solicitor for Mr. Tooke.

Messrs. G. and R. Clarkson, Essex-street.

Mr. Tooke being put to the bar, Mr. Shelton, Clerk of the Arraigns, called over the names of the gentlemen (the same

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pannel as in the case of the King *v.* Hardy) who were summoned upon the Jury.

When Mr. Shelton was about to call over the Jurors a second time, for the purpose of giving the Crown and the prisoner an opportunity of challenging,

Mr. *John Horne Tooke* said, it was necessary for the purposes of his defence that he should quit the situation in which he stood, and to be near the counsel which the Court had assigned to him for the conduct of his defence.

The *Chief Justice* said, that this was an indulgence he hardly ever knew given to a person in his situation.

Mr. *Tooke* said, he was aware it was an unusual application; but that was no wonder, every thing in the whole of this proceeding was unusual; the last trial under this Commission was a particular proof of it. He was informed by the short-hand-writer that that trial would amount to some hundred octavo pages closely printed; that trial took up eight days, which, with one day between, made the duration of the trial from the time of the arraignment of the defendant, to the time he was delivered by his country, nine days; this arose from the form of the indictment, and the nature of the prosecution. With the prospect of this trial before him, it appeared to be impossible for him to proceed in a proper manner in his defence; a great part of the history of his life was made matter of charge against him in this prosecution; he must explain that part, and it would be impossible for him to instruct his counsel, and without immediate instruction from him, it would be impossible for them to know those passages of his life that would probably be brought before the Court. How would it be possible for them to know the facts, if he had not an opportunity of instructing them every moment; if ever there was a case in which this unusual application should be complied with, this was that very case, and their Lordships would forgive him for saying, he might claim it as a right by law. It was as much his inclination as his interest, to conciliate the esteem of the Bench, as well as all his auditors, but he must say that if he was a Judge, that word *Indulgence* should never issue from his lips; a Judge had no indulgence to grant, he was bound to be just; he asked no indulgence, and what he did ask the Judge could not grant; but if the Bench had a doubt upon this point, that he could not help, and in that event he was ready to claim this as his right by law. He begged again to repeat that he did not mean in the smallest degree to give offence, when it was his interest to procure good will; but he was in a very extraordinary situation, wherein, if he did not succeed in his defence, he must die twice; one being in

in the manner of his execution; the other, by far the most dreadful, arose from the apprehension and the terror of beggaring his family, making himself an outcast of society while alive, and his name infamous to posterity for ages; that he might not therefore lose his life while he stood to be judged for it, and while the stake was so deep, he made this application. If they allowed him to stand by his counsel, he might have some chance of making his defence, but if they kept him at that bar for eight hours instead of eight days, as was the case of the person who stood there last, there would be no occasion for any verdict, for that of itself would be as effectual as any sentence of death that could be pronounced upon him. It should be recollected also, that he came out of a place of very close custody, part of which had been attended with degrading and humiliating circumstances, and some of them inhuman ones, where he had wasted his health during a sultry season; many returns of the year he could not expect in the course of nature, if he were discharged now, but if ordered to remain where he stood now, he could not expect to survive the present trial. He might, perhaps be able to afford his counsel such means for making his defence as would materially shorten the trial, if the Court granted the means, by granting what he now asked.

The *Chief Justice* observed, that the prisoner had what the law regarded as necessary means to enable him to make his defence. He had had counsel assigned him; they had had, or might have had access to him at all seasonable hours; that was what the law allowed him. He had taught the Court not to use the word indulgence, and he had taught them too that in their duty they were not to give any indulgence; now, his lordship said, that he was apprehensive that to grant this application would be an extraordinary indulgence, because it was a thing that was not done to any other prisoner, who had the same stake that he had, or any other person who came to that bar, and therefore, on that score, the Court would not be permitted to comply with this request; they could not in that view do it, without being guilty of injustice to others; it was evident therefore, that the Court would not grant what the prisoner asked, on the ground on which he asked it; but he had stated another, which, although he grounded no motion on it, yet it was in itself extremely material, and would warrant the Court in doing that which the prisoner thought they ought not to do, namely, to grant him an indulgence; he had stated the condition of his health to be such, that he must suffer much if he was ordered to remain where he stood, the Court would not put his life in any danger on account of

the place in which he ſtood, nor his defence to any difficulty that could be avoided by the Court; they wiſhed him to make his defence in the beſt manner imaginable, if this was likely to diſentangle the priſoner out of any difficulty which he felt, his lordſhip ſaid he would put it to the Judges whether the priſoner might not be *indulged* as he aſked.

Mr. *Tooke* ſaid, that on the footing of indulgence, he thought he had explained himſelf already, but if the Court ſhould refuſe it under the title which the Chief Juſtice was pleaſed to give it, they would hear his arguments on the point of law in this caſe.

The *Chief Juſtice* ſaid, that the priſoner ſhould ſtate the whole of what he had to ſay on this ſubject now; and before the Court deliberated, if he wiſhed to argue any point of law, the Court would hear him.

Mr. *Tooke* ſaid, that if he underſtood there was any objection on the part of the Bench to what he aſked, he ſhould be ready to argue the point, and ſhould deſire to argue it; it was a point on which the principle of the law was clear; he begged leave to ſay, that although in his own mind he excluded the idea of any indulgence, and applied the point on the ſcore of health, yet he was confident that upon either he had a right to argue in favour of the application which he now made, but underſtanding from appearance that the Court was willing to grant the object of it, he did not think it neceſſary to cavil on a word: he had in ſubſtance what he aſked, he ſhould therefore now ſay no more upon this matter, only begging it to be underſtood that he did not mean to change his ground.

The Judges having conſulted for a few minutes—the *Chief Juſtice* informed the priſoner, that the Judges preſent felt themſelves extremely diſpoſed to indulge the priſoner upon the ſcore of his health; they thought that there was in this caſe a diſtinction from others, which juſtified them in doing in this, what was not done in others, even though they could not lay down for him a rule which they would not lay down for any other man living; but if his caſe was different from the caſe of others, they would grant him the indulgence which he now aſked.

Mr. *Tooke*—"I thank your lordſhip for that *on account of my health.*"

Mr. Tooke was then permitted to quit the bar, and to ſit at the table with his counſel.

The officer of the Court then called over the names of the jurors who had been ſummoned to attend.

On calling over the name of Mr. Philip Godſal,

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Mr. *Erſkine* ſaid, he was inſtructed to call a witneſs, to prove a declaration alledged to be made by Mr. Godſal, which would totally diſqualify him from being impanneled: the ſubſtance of the declaration was—That, if he was on the Jury, he would hang every one of the priſoners.

A clerk in Mr. Bell's Oracle office was called; but he had no knowledge of it: what he ſaid related merely to rumour; and therefore the objection which went to diſqualify Mr. Godſal could not be allowed.

Mr. *Erſkine* then challenged Mr. Godſal, as a Juror, peremptorily; and he was ſet aſide of courſe.

Mr. *Bell*—" Mr. Attorney General, my name is Bell, and I beg leave to diſclaim any knowledge whatever of this tranſaction, until I heard it now."

The following nine gentlemen were impanneled upon the Jury:

James Haygarth, Eſq. Southampton Place, New-road, foreman.

Thomas Harriſon, Gray's-Inn-Lane, Cowkeeper.

Edward Hale, Highgate, Gent.

Thomas Draine, Limehouſe, Brewer.

Matthew Whiting, Stepney-cauſeway, Sugar-refiner.

Norriſon Coverdale, Limehouſe, Rope-maker.

Robert Mairis, Holborn, Gent.

William Cook, Eſq. Great Ormond-ſtreet.

Charles Pratt, Tottenham, Miller.

The pannel was then gone through and three Jurors wanting to make up a full Jury.

Mr. *Erſkine* obſerved that they on the part of the Priſoner, had exhauſted their right of challenge, in the courſe of which different Gentlemen had been excuſed. It was not poſſible for them on the Defendant's part, to know what number would appear, or if they did appear what excuſe they would make, or how many would be diſqualified. The defendant had only 35 challenges out of the whole Pannel, conſiſting of 228. What was to be the caſe now if the Pannel was to be called over again? the defendant would be under the neceſſity of taking ſome Jurors he had already objected to, for this would be the effect of calling the Pannel over again, if the Crown ſhould exerciſe the right of challenge, and inſiſt that the defendant ſhould have no more. He could not conceive a harder caſe than this would be. When the Crown aſſigned no cauſe for its challenges, the law preſumed on the part of the Crown there was no cauſe to ſhew, and the law allowed to the defendant a right of challenge alſo, without aſſigning a reaſon, to the number of thirty-five. This was by way of indulgence to the accuſed, and it was founded

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upon a just principle to support a man under a heavy accusation, and great possibility of influence; but there was no such in support of the challenges for the Crown; they were founded on a different idea altogether, and having none of these difficulties to contend with, the reason of the thing therefore, appeared to be, that if the Crown persisted in the challenges of those to whom the defendant had no objection, without alledging a foundation for it, there would not be a Jury such as the defendant was intitled to pass upon his life or death. If he was over-ruled in this, he must be over-ruled in law, the consequence of which would be, that it would be manifest to the world, that in this most extraordinary species of trial, no man can know what course he can take, because he cannot know what may happen to defeat all his care and caution; having said this, he wished it to be understood, that he had not the smallest personal objection to the gentleman now before them as a juror, but he must now beg that the Court would call on the officers of the Crown to assign a reason for their challenge.

The gentleman at this time proposed as one of the Jury, and called into the box for that purpose, excused himself from attending, by assuring the Court on oath, that he had too much bodily infirmity to go through the service. He was permitted to retire.

Mr. *Tooke* observed it would be extremely necessary that the Jury should be sound and firm in body as well as in mind, and on that account those that might have been set aside from infirmity should not be called upon to serve. It was highly essential to public justice that this idea should not be lost sight of, and important to himself personally, for although he was, he believed the most infirm man in the Court, yet he wished a firm Jury, capable of enduring great labour, and such as would not lose sight of the main subject by a succession of various events, and to that trial they must certainly be put: this was evident from the last trial, which lasted nine days, where the Jury might be compelled day after day, perhaps without change of shirts and unshaved, to attend the Court. On that trial he understood that a question was put—What should become of the Jury; when the Court was tired, nothing was asked as to what should become of the Judge; but had the prisoner so chosen, they would have been bound to stay, Judge and Jury, until the whole trial was over. If the Jury were bound to stay, so was the Judge; if a Jury went out, a person went with them, and they might be said to be in custody until the trial was over; so was the Judge—he was upon the Bench, and every person in Court was his keeper, as well as

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the observer of his actions. He then observed, that if he was to have an imperfect Jury, it would be better for him to insist that neither they nor the Court should stir until the whole of his trial was over, for although that would be certain death to him before the trial was over, yet the public justice would be saved, and the law kept clear of a bad precedent. He argued then on the hardship of allowing to the prisoner in such a tremendous case as this, only the number of thirty-five challenges out of two hundred and twenty-eight, and yet to allow to the Crown an unlimited number of challenges. This might possibly be some practice of the law, and it had often been properly censured; the practice he did not pretend to comprehend, because he believed nobody did thoroughly comprehend it; but the law he certainly did understand, because he could read. Rather than that the law should be trampled upon, he begged that he might at once suffer in his life—Let him die in that place rather than that the laws of the country should be overturned. He had some other objections to make, to points in his trial, but he had been over-ruled by his Counsel, and therefore he forbore them; the law, however, he conceived to be entirely in his favour, and perhaps it would appear after the case for the prosecution had been gone through, that no defence on his part would be necessary; the only thing he was anxious for at present, was, that he should have upon his Jury twelve sound and good men.

The *Chief Justice* said, that Mr. Tooke's Counsel had, no doubt, advised him properly, as far as their advice had gone. The rule, as far as our history in such cases went, was, that the Crown had no peremptory challenges; but the course was, that the Crown challenged as the pannel went on, and assigned no reason for it until the pannel was gone through, and that they must take to be the law of the land; this, in ancient times, must have given to the Crown an improper advantage; and if such should appear to be the case now, the Court should take that matter into serious consideration; but he did not see that any unfair use had been made of that power in this case; it appeared here that only seven had been challenged on the part of the Crown.

Mr. *Tooke* said, that was a majority of the Jury, who must eventually try the issue.

The *Chief Justice* said, it did not appear to him that any improper advantage had been taken in this case. The rule was, if the pannel was gone through, the Crown must shew the cause of a challenge. Here the pannel was gone through, with the reserve of two or three cases. The strictness of justice did not require that the Court should compel these gentlemen to be sworn in, and the Court was now ready to listen

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to the other ſide. The queſtion was now, Whether the Crown was bound to aſſign reaſon for challenging?

Mr. *Tooke* obſerved, that if this trial was to be carried on as the laſt was, they ought to take care to have a very ſound Jury, for it might be a trial of two hundred hours.

The *Attorney General* ſaid, he really felt that the priſoner in this caſe might be put into circumſtances which he did not wiſh to ſee him, or any other perſon, charged with any proſecution of which he had the conduct. They might in this caſe be truly ſaid to have challenged A when perhaps had they known how the pannel would have been gone through, they would have challenged B inſtead of A, and the priſoner might feel an unpleaſant ſenſation in finding that a perſon, whom he had already challenged, was to be ſworn to ſit in judgment upon his life, and therefore the challenge would not anſwer to the priſoner the object intended to be ſecured by it. In this ſtage of the buſineſs, he was now ready to admit that no one of the defaulters ſhould be called over, and he was anxious that nothing ſhould appear in theſe trials, but that of the juſtice of the country being attended to. He could not have foreſeen that this caſe would happen, and he was now ready and willing that the trial ſhould proceed, and therefore he waved all objections to any perſons on the pannel.

The following gentlemen, being the firſt three upon the liſt of ſeven objected to by the Crown, were then ſworn in:

Mathias Dupont, Enfield, Gent.
William Harwood, Hanwell, Eſq.
Henry Bullock, Whitechapel, Brewer.

And the Jury was complete.

Mr. *Percival* opened the pleadings; which were preciſely the ſame as thoſe in the trial of Mr. Hardy.

The *Solicitor General* then opened the caſe. The Jury, he ſaid, had heard the indictment, and therefore he ſhould only ſimply obſerve, that it charged the priſoner at the bar, in conſpiracy with others, in compaſſing and imagining the death of the King; he was charged with having done different and various acts, if any one of which was proved, it would call on them to pronounce him guilty; the meaning and tendency of which was, to ſubvert the government and laws of this kingdom, and to depoſe the King.

The law in this caſe was perfectly clear. Any act done, the conſequence of which may endanger the life of the King, is always taken to be in purſuance of an intent to compaſs the death of the King; this being demonſtrated, the crime was completed. It was not material that the perſon charged ſhould have it in his contemplation that the conſequence would follow as ſtated, and that he believed it; it was enough, the ordinary conſequence to be apprehended from it, was the de-

position of the King. A conspiracy to depose the King was clearly an act of high treason, because it tended to bring the King's life into danger, and in a degree to deprive him of his royal authority. Doing an act which the King shall be bound to obey, or be in danger by not obeying, such as forcing the legislature, had been uniformly held to be High Treason. He should not detain them upon the law, because if they believed that the charge of conspiracy to subvert the legislature and government, and to depose the King, was proved, the consequence must necessarily follow that the prisoner was guilty of high treason. He felt so much the great importance of the case before them, and his own insufficiency for the task imposed upon him, that he should not enter as much into detail upon it as might otherwise perhaps be proper. He did not know whether the Constitution, to which he hoped and trusted a great majority of the people of this Country were sincerely attached, was to be destroyed, or whether they should rally around, and if necessary, defend it under arms; but he had on this occasion reason to attribute to the prisoner at the bar, with others, a conspiracy to bring that point to a trial, to depose the King and to subvert the sovereign power and authority of this country as by law established, and to bring that about by his own force, in conjunction with others, as had been stated in the indictment. Whatever the object of the prisoner was, whatever the consequence might be, whether one form of government was intended, or another form, were points that he conceived to be quite immaterial, because any change, as the prisoner intended, by force, must tend to deprive the King of his Crown and Dignity, and making him who ought to command to obey: and therefore High Treason. Whether the prisoner was to form a new government of King, Lords and Commons different from what is now established, or by a King and one general assembly, or a government without a King, or with a King and without Lords, were questions in themselves quite immaterial, they all came to perfectly the same thing as to the effect of the charge against the prisoner, for the charge was, that he endeavoured to bring about an alteration of the established government of this country by the force of individuals, and not by the act of the constituted authorities and powers: this was the substance of the charge, and this, if proved, would most unquestionably amount to High Treason.

Considering the length into which the present trial was likely to run, he thought it would not be fit for him to enter into the detail of the evidence which would be laid before them on the present case; he should, on that account, only give them

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the outline of it, which he hoped would enable them to join the several parts together, so as to understand the whole of it, and draw the result which he conceived they ought to do.

He attributed to the Prisoner and others, a Conspiracy to effect a change in the sovereign power of this country by their own force. That sovereign power was at present constituted of King, Lords, and Commons, in Parliament assembled, and the King acting at the head of it, in the way which the Constitution required. He attributed to the prisoner, that he, for the purpose of effecting that Conspiracy, together with those with whom he acted, and with whom he was associated, had quarrelled, not merely with the Administration of the Government, or with the frame of the Constitution of that Government, but with the principles on which the Constitution of the country itself was formed; the objects were therefore radical.

It would be argued perhaps, that no Government can be lawful but what is founded on the Rights of Man; if so, the consequence must necessarily follow, that as every other Government is improper, it is the duty of every man to destroy every Government that was not so formed; and this must as necessarily be followed by anarchy and confusion throughout the whole world; for, according to their own definition of a lawful Government, there existed no Government lawfully formed.

If such was the design of these persons thus engaged in this conspiracy, every act towards the accomplishment of that design, he conceived to be an overt act of High Treason against his Majesty; for it was towards the accomplishment of a design they had in view, to subvert the Constitution; because they had declared that no Government, except such as were formed upon their principles, ought to stand.

We all knew when these persons were acting, what was passing in France; it was then said to all who were alarmed—Why are you afraid?—the situation of the two countries is very different; in France they have no Government; they proceed on a principle detested by all good men, and as it is not founded in the opinion of the people, it must fall, for a Government can only subsist by the opinion of the people; but the British Government is firmly and deeply rooted in the hearts of the People, and therefore you will have no cause of alarm; the argument was just, and the Prisoner and others felt the force of it, and they for their purpose held it out to the world, but secretly they were determined to destroy, if they could, that very attachment which they boasted of so much as being the best security of the country; for this purpose it was

that they ſo induſtriouſly propagated the doctrine that no Government was lawful but thoſe that were founded on what they called the Rights of Man, which they interpreted to be the rights of equal active citizenſhip; the rights of equal active citizenſhip were neceſſarily inconſiſtent with the Britiſh Government, for ſuch rights could not exiſt with an hereditary King, or an hereditary Houſe of Lords. The moment, therefore, it was determined that equal and active citizenſhip were parts of the Rights of Man, and that no Government was lawful except that which was founded on the Rights of Man, it was ſaid in effect that the Britiſh Government was unlawful, for it was not founded on ſuch Rights; this muſt neceſſarily tend to deſtroy all allegiance, for it would be found that they came to the concluſion that the Government of this country was ſuch as the people of this country ought not to approve.

The ſituation of this country was, in the opinion of theſe perſons, ſimilar to that of France, when they declared no Government ought to exiſt but that which was founded on the opinion of the people; and what was it that deſtroyed the then Government of France? The loſs of the opinion of the people; by this it was evident what they intended to effect by the propagation of theſe doctrines.

He then proceeded to ſtate the different ſentiments in the book of Mr. Joel Barlow, and in the ſecond part of the Rights of Man, by Mr. Paine; of the different correſpondencies between the Society for Conſtitutional Information, of which Mr. Tooke was a member, and perhaps the parent; and the other various Societies over the kingdom; and then he took notice of the different Addreſſes of ſome of theſe to the National Convention of France, as alſo of Mr. Paine's Letter to Mr. Dundas, from all which he inferred, that it was the view of the leaders of theſe Societies, among whom the Priſoner was the moſt conſiderable, to eſtabliſh a Republican form of Government in this Country; and, had he any other views, it became him as a man, conſiderably endowed by nature with talents, and greatly informed by education, publicly and expreſsly to avow them; but the whole tenour of his conduct was too manifeſt to admit of a comment in his favour: he had acted always in thoſe Societies with a view of forwarding their plan, to ſubvert the Government and all the eſtabliſhed authorities acting in it; and therefore he muſt be guilty of the crime, with which he ſtood charged in the indictment.

The Solicitor General proceeded, that after the war had taken place, and interrupted any intercourſe with France, the Societies had ſtill purſued the ſame ſyſtem. They thought it neceſſary to keep up the ſpirit to which they had given birth,

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and to cherish the expectation, that some Revolution must speedily take place. For this purpose they had recourse to the expedient of petitioning Parliament for a Reform in the Representation, though they had no hope or intention that such a Reform should ever take place. In corroboration of this he referred to different papers of the Corresponding Society. He then went into the history of the Scotch Convention, which, he affirmed, if permitted to proceed as it had begun, must inevitably have terminated in producing a civil commotion. There was no reason why they should assume the title of the Delegates of the People, except they meant to do something which was to be considered as the act, and be supported by the authority of the People.

Affecting to derive their power immediately from the People, their intention no doubt was to supercede the functions of the existing Government. He here referred to what had happened at the commencement of the Revolution in France, the example of which they seemed closely to pursue; having the same object they were naturally led to adopt the same means. He here read the resolution come to by the Convention, and ordered to be inserted at the end of their minutes, which he contended was equivalent to the resolution of rendering their sitting permanent. The Chairman had in consequence refused to quit his situation, except by compulsion; if the force brought to disperse that Convention, had been unequal to the force which they possessed, what must have been the consequence? They had already shewn, not unequivocally, a determination openly to resist government, and if any number of People had declared in their favour, a civil war must necessarily have followed. He then took notice of the Resolutions entered into by the Constitutional Society, at a Meeting at which John Horne Tooke was stated to have been in the Chair, approving of the proceedings of the British Convention. He proceeded to comment on the Resolutions, brought forward at a Meeting of the Corresponding Society, at the Globe Tavern, on the 20th January, which he affirmed, could be construed no otherwise than as a Declaration of War against the Constitution—an appeal to the sword—open rebellion. When they talked of having redress from their own laws, what could they mean but their own force? And whom could they describe as their plunderers and oppressors, except those who composed the existing Government? He next adverted to the co-operation which had taken place between the Constitutional and Corresponding Societies. In one of their Resolutions he remarked, that they had made use of the term, "A Meeting," and said, that it was very difficult to discover the

the difference between a Meeting and a Convention. After briefly noticing the meeting of the Conſtitutional Society at the Crown and Anchor, he ſaid that he need only call to their recollection what would have been the conſequences if the propoſed Convention had been permitted to aſſemble? The different reſolutions of January appeared to him to prove, that it was their object to carry their intentions into execution by open force. Theſe Reſolutions were indeed ſo expreſſed as to lead to any thing, but by no means to a Peaceable Reform. In his opinion, they had been clearly guilty of High Treaſon, by ſubſtituting themſelves for the exiſting Government, and ſetting up their own laws in oppoſition to thoſe of what they called their plunderers and oppreſſors. The principal facts which he had ſtated could not be controverted nor explained away; it was impoſſible to ſuppoſe that a man of the Priſoner's abilities could himſelf be either deceived or deluded with reſpect to the line of conduct he purſued, or the conſequences it was calculated to produce. It would be urged in his vindication, that he had no other object than a Reform in the Houſe of Commons, it would be aſſerted that he had expreſſed himſelf attached to the Conſtitution and the hereditary Nobility. But in the Rebellions of 1715 and 1745, were the perſons concerned leſs guilty of High Treaſon becauſe they might profeſs themſelves attached to the Monarchy and Religion of the country, while they were embarked in a cauſe which might have terminated in the ſubverſion of both? Men may profeſs loyalty, they may have it on their lips while in their hearts it may be far from them. Such was the caſe of Lord Lovet in the Rebellion. The French Convention affected to ſpeak of the King with the greateſt reverence, till ſuch time as they had fully ripened their plans for his deſtruction. The greateſt traitors may profeſs loyalty. Judas himſelf betrayed his Lord with a kiſs, addreſſing him in the terms of "Hail Maſter." If the Priſoner was loyal to the Conſtitution, what did he mean by Reſolutions recommending the publications of Paine and Barlow? What did he mean by Addreſſes to the Jacobin Club, and the French Convention, by the letters in which he deſcribes Monarchy and Ariſtocracy as vipers gaſping in the pangs of diſſolution—by admitting Barrere and Saint Andre as Honorary Members of their Society, and holding out their ſpeeches on a Government of inſurrection, and the murder of their Sovereign, to public notice. What was the neceſſity of a Convention, if nothing was meant but a peaceable application to the legiſlature for a Reform of Parliament? Can witneſſes to any number brought to prove profeſſions of loyalty, do away the impreſſion which muſt

arise from the incontrovertible testimony of facts? The evidence was of that nature, which in his opinion was sufficient to prove the crime of High Treason charged in the indictment. I now, said he, sit down, leaving to you the care of that Constitution with whose interests you are entrusted, and which you are bound to defend against attack, confident at the same time that you will not forget the duty which you owe to the Prisoner, as a member of Society, and the claim which he has upon your justice and protection, and that under these impressions, you will endeavour to discover what is the truth of the case, and having so done, give your verdict according to your conscience.

The *Chief Justice*, then suggested to the Jury that if they were so disposed, it might be a proper time for them to retire to take some refreshment. The Judges remained on the Bench. In a few minutes the Jury returned, when the Counsel for the Crown proceeded to call the evidence on the part of the Prosecution.

Thomas Maclean was called to prove papers found in the possession of D. Adams.

William Woodfall was next called to prove Horne Tooke's hand-writing. In his cross-examination by Mr. Tooke, he stated that he had seen him write in the year 1775, when he brought an advertisement to the office of the Morning Chronicle, for a subscription for the survivors of those Americans who had lost their lives in the battle of Lexington. The history of this transaction, which he detailed, particularly impressed it upon his memory.

Mr. *Tooke*.—Mr. Woodfall, you have a very good memory, but it surely must require a more than common exertion of your retentive powers, to be prepared to state the hand-writing of a man whom you saw only write once, and that at the distance of 19 years.

Mr. *Woodfall*.—The circumstances of the transaction particularly impressed the writing on my memory, which has since been refreshed by your hand-writing having since at different times passed through my hands, and so very lately as the year 1791. To the best of my recollection the paper now shewn me is your hand-writing, so far as I can judge from the resemblance of hands.

Mr. *Tooke*. "To prevent trouble and save the time of the Court, I offer freely and willingly if any paper is shewn me of my hand-writing, at once to acknowledge it."

The *Chief Justice* "In a case so extremely penal, I would not feel easy if in consequence of such acknowledgment of a Prisoner,

Prisoner, more was to be made out of the contents of a paper than he himself was aware."

Mr. *Tooke*. "Of such a distinction I might avail myself in a case of Libel, but not of High Treason. In the present instance I am not conscious of having had a thought, of having done an act, or of having uttered an expression, which taking in all the circumstances of time, place and occasion, I have any hesitation to avow."

The *Chief Justice*.—"I had rather that the evidence should take its course."

The Clerk then proceeded to read some minutes in which the name of Mr. Tooke was inserted.

Mr. *Tooke*.—"Is this evidence of my having been present at these meetings? It is indeed, the most extraordinary that in my mind was ever produced. The greatest part of the trash now read to me I never saw. Wherever my name is written by myself, I have no hesitation to acknowledge it. As to the contents of these books the greatest part of them I never saw. My time, I trust, has been better employed than to read the same things over and over again for 30 years. I do not say that their contents are not innocent; some of them I deem even meritorious; but I do not wish to take to myself a merit which in the present instance does not belong to me."

The *Chief Justice*.—"You ought not to break in upon parts of the evidence. You have a right to call upon them to state how that evidence is brought home to you: but the chain in its progress is necessarily composed of links."

Mr. *Tooke*.—"A chain is necessarily formed of links; but it is my business to destroy these links, in the present instance."

The *Chief Justice*.—"But without links, the chain cannot possibly be formed."

Mr. *Tooke*.—"It is my business, then, my Lord, to prevent it being formed at all."

Mr. *Erskine*, adverting to the proceedings of the late trial, said, that all the matter brought out in the Solicitor General's speech, had excited in him no emotion. A number of papers had been read, the quality of which had already been determined by the verdict of a Jury. He understood from the Solicitor General, that these papers were all upon which the charge of treason was to be supported. He had heard nothing of arms, or of any intention of having recourse to force. A bundle of correspondences were brought forward, carried on by people with whom it was not proved that Mr. Tooke had any connection, and many of whom he never saw. How was this mode of conducting proceedings to be accounted for, unless the brief of the Solicitor General was made up of accusatory

cusatory matter from a printed Report, a mode in which he trusted that no Brief, on such an occasion, would ever be made up again. In the present instance, the overt-act charged was concerting the plan of holding a Convention, and the first evidence produced was a book found in Adams's possession, before it had been proved that any such society as the Constitutional Society existed, or that Mr. Tooke had ever seen the book before. It was a clear rule that the best evidence ought always to be first brought forward. To have recourse to secondary evidence seems always to intimate a distrust of the primary. On what ground could it be attempted to produce evidence to prove an overt-act of Treason, which should not be admissible, even in a case of Libel. Would it be said that this book should be read now, and afterwards brought home to the prisoner? My Lord, the rule with respect to evidence is the glory of the English law: it results from an acquaintance with the human character, from a conviction that those who are to try the accused are men, and not angels, and is admirably calculated to guard against the danger of a hasty and partial decision. It is not permitted in the commencement of evidence, to read strong matter, which in the course of a long trial the Jury might not be able to discharge from their minds, and which, though subsequent evidence might occur to do away its effect, might nevertheless, from that strength which always accompanies a first impression, retain its influence upon their decision.

Mr. *Erskine* then adverted to a question on this very point, which had occurred on the trial of Mr. Hastings, and to the decision given by the Judges on that occasion.

The *Chief Justice* admitted that it was just ground of objection, not to admissibility of written evidence, but to the reading of it till it was brought home to the prisoner.

Mr. *Garrow*, in consequence of something that had dropped from Mr. Tooke, complained of misrepresentations of his conduct on the trial, and of attacks on his character through the medium of hand-advertisements.

Mr. *Tooke* said that he did not intend to make him any reproach. No man had suffered so greatly as himself from such attacks. It had been said, "Cursed is he who reviles the deaf." During the last six months, in which he might be said to be deaf, dumb, and blind, not a day had passed in which he had not been attacked by papers in the pay of ministry, with the vilest calumnies. He had now a volume of them in his possession; and whatever might be his fate in the present trial, he trusted that the Attorney General, from his

his regard to juſtice, would be induced to vindicate his memory from the attacks of theſe unprincipled calumniators.

The *Chief Juſtice Eyre* ſaid, that he truſted this explanation would ſuffice; for if every one was to bring forward the inſtances in which he had ſuffered from ſuch calumny, they might find ſufficient employment in hearing ſuch complaints during the remainder of the trial.

Daniel Adams depoſed, that he had been ten years ſecretary to the Society for Conſtitutional Information, of which Mr. Tooke was a member.—He identified the book in which the entries of the ſociety were made. He uſed to put down the names of members who were preſent and who were not preſent, the reaſon of which was, that ſometimes members came into the room, and the names were put down, though they went away before the ſociety had proceeded to buſineſs. They were accuſtomed to dine together, and the names of all who were preſent at dinner were put down.—The ſociety was not formed until ſeven o'clock in the evening, by which time ſome of thoſe who had dined, might have gone away. The firſt buſineſs was, to enter the names of the members, and to read the minutes of the proceedings of the former meeting. He did not know any corrections entered upon the minutes by particular members; the books were only open to inſpection during the meeting. Mr. Horne Tooke was frequently preſent, but commonly did not ſtay after dinner, as he lived in the country. The reſolutions inſerted in the books were copied from ſlips of paper handed to him by different members, whoſe names he could not take upon him to mention with any degree of accuracy. He generally put down the name of the perſon who was in the chair in the beginning of the evening, though he might not afterwards notice at what time he went away.

Croſs-examined by Mr. Horne Tooke.

Q. Mr. Adams, you ſeem to be agitated: let me beg of you not to be alarmed. I only wiſh to interrogate you with reſpect to your knowledge of certain facts. Were not the names of the members preſent entered on one paper, and the reſolutions on different ſlips of paper?

A. Yes.

Q. Was there not a Conſtitutional Club, different from the Society, which was merely a Dinner Club, at which every gentleman might be preſent, who thought proper; and a book belonging to that club, containing merely the names of the perſons who dined?

A. Yes.

Q. You were, you say, ten years secretary. When you were first appointed, was it not known and declared, that you had then a place under government; and was it not also understood that you had permission from those concerned in the department in which you were employed to become a member?

A. I believe it was so understood by one who at that time was my very particular friend.

Q. Were not the books of the accompts of the society seized along with the other books? What was the annual subscription for each member, and what might be the amount of all the subscriptions?

A. They were seized. The subscription for each member was a guinea; and the whole subscriptions amounted to about sixty pounds a year.

Q. What part of this was employed for the necessary purposes of the Society; such as the rent of a room, fire, candles, pens, ink, paper, &c.?

A. About fifty pounds.

Q. So there remained a sum of ten pounds a year to overturn the Government! Had you any overplus in your hands, after the necessary expences were paid, or were not the society generally in arrears?

A. They generally were in arrears.

Mr. *Horne Tooke.*—"My Lord, I ask these questions in order to shew that if the society had the intention ascribed to them of subverting the constitution, how well qualified they were in consequence of their pecuniary resources to effect their purpose." Mr. Adams, be so good as to look over the names of the members stated to have been present at a meeting held on the 5th October, 1793; among which is the name of Tooke; Was he present on that occasion?

A. I recollect he was not present.

Q. An extraordinary meeting was then proposed to be held, within a few days, for the purpose of taking into consideration whether delegates ought to be sent to the Convention at Edinburgh? Do you not recollect a particular circumstance by which you can ascertain that Tooke was not present?

A. Yes, I was directed to send summonses to the members to attend that extraordinary meeting. Among others I should have of course sent one to you, had not two members, Mr. Sinclair and Mr. John Williams, undertaken to wait on you in person, and inform you of what had taken place at the meeting.

Q. Was Tooke present at the extraordinary meeting?

A. I perfectly recollect that you were not present.

Q. Had

Q. Had you good reason to know that I strongly opposed the measure of sending members as delegates to the Convention at Edinburgh?

A. I recollect that it was so stated by Mr. Sinclair.

Q. Do you not remember that I made use of very strong expressions on the subject, and that even some wrangling took place between me and another member on the occasion?

A. I know that it was at the time understood by all the members that you did not approve of the measure.

Q. Was there not even a report in the Society, in consequence of the opposition which I gave to the measure, that I was bribed by Government for the purpose?

A. I recollect that there was such a report.

Q. You did not understand that Yorke was a Member of the Society?

A. No.

Q. Was there any money for Yorke as a Delegate to the Convention at Edinburgh; and what proportion for Sinclair?

A. There was no money at all for Yorke, and scarcely any for Sinclair.

Q. Do you recollect having sent a letter to Sinclair while he was a Delegate at Edinburgh, or any part of its contents?

A. I wrote to him that it was the general opinion of the Society that no good was to be done, and that he ought immediately to come home.

Q. The letter, I think, was sent in October or November. Is there any copy of it upon the books?

A. (shewing a letter) There is a copy of one letter, which I sent, advising him to return home.

Q. O, then you sent more discouraging letters than one to Sinclair on the subject of this Convention. Did I ever subscribe a single halfpenny on the ground of promoting this Convention?

A. Never. (Horne Tooke was then shewn a letter by the Attorney General, the back of which he owned to be his handwriting.)

Mr. *Tooke*.—There is one circumstance which it will be proper to remark: After the measure of sending the Delegates to the Convention at Edinburgh, the Society adjourned from the 8th November to the 6th December, and then to the 10th January. The Society, it appears, so little liked the business, on which the Delegates were employed, that they adjourned first a month, and afterwards five weeks.——Mr. Adams, be so good as to look at the minutes of the proceedings of the 21st June, 1793. Do you not find the name of Yorke

 being

being present? Do you recollect what passed upon that occasion?

A. Yes; I recollect that Yorke was at the meeting, and that an objection was made to his being present, as not being a Member.

Q. Do you recollect whether any person endeavoured to persuade the Society to come to some declaration, and what was proposed in consequence?

A. It was proposed to adjourn.

Q. Do you recollect that afterwards an Address to the Nation was proposed, but never brought forward?

Mr. *Tooke.*—"I have here to remark one circumstance in consequence of what I understand took place in a preceding trial, where one of the charges brought forward in order to attach criminality to the proceedings of societies in town, related entirely to what had been done and said by a person at Sheffield.—If a member proposes something in a society which is disapproved of, and not acted upon, and goes afterwards, perhaps, to a place three hundred miles distant, where he carries his purpose into effect, all the responsibility of his conduct is to attach, by implication, to the society to which he belonged in town. This will be enough to shew on what grounds treasons may be built."

The *Chief Justice.* "The propriety of your remark depends on the nature of the case. Though the measure when proposed may originally have been rejected in the Society in town, yet if afterwards, when carried in the country, the proceedings connected with it shall appear to have been approved and acted upon by that society, the responsibility will then fairly attach. In the instance to which you allude no wrong was done to Hardy, because the speech which had been delivered by Yorke at Sheffield, and afterwards printed, was clearly brought home to him by the evidence."

Mr. *Tooke.* "The wrong then, my Lord, is done to us, who are to be considered as having sanctioned and adopted those proceedings of Yorke which in fact we disapproved and rejected."—(*To the Witness.*) "Did not Tooke, when he attended the meetings, in general go away very early?—A. He did.

Q. Have you not reason to recollect this from some particular circumstances? Has he not mentioned to you that his family was small, that he went to bed every night at nine o'clock, in order that he might rise betimes in the morning?

A. I have a perfect recollection of these circumstances.

Q. Do you not even recollect that when he has been importuned to stay, his presence at the time being absolutely necessary to make up the number of members necessary, he has gone away in order to prevent the society from doing any business?

A. I re-

A. I recollect ſuch to have been the caſe.

Q. Do you not alſo recollect that he propoſed to the ſociety to lay on their oars, and adviſed them to adjourn to ſome very diſtant period?

A. Yes.

Q. Such conduct muſt appear rather uncommon in a perſon held out as the leader of a ſociety. You recollect, that I ſigned in the minutes whatever I could conſent to?

A. I certainly do.

Q. Who was conſidered as the father and founder of the ſociety?

A. Major Cartwright.

Q. Have you ever read the Reports of the Secret Committee of the Houſe of Commons?

A. Yes.

Q. You are not acquainted with the books or papers of other ſocieties except from thoſe reports?

A. No.

Q. Was it the cuſtom of the members to read over the book which contained the minutes of their proceedings during their meeting?

A. No; they hardly ever looked at it.

Mr. *Tooke.*—So far then from being accountable for the papers of other ſocieties, it appears they ſcarcely knew their own. The ſecretary uſually read them, but the members, as generally happens, were all the while talking; indeed they were ſuch traſh as it was not worth while to attend to. Do you recollect what number of perſons were generally preſent at the meeting?

A. The numbers varied; there were not often above ten, in a few inſtances, perhaps thirty, and ſometimes perhaps not more than five or ſix were preſent.

Q. Were they all armed with pikes and muſkets, &c.?

A. By no means.

Q. Did you at any time hear any talk of arms, of having recourſe to force?

A. Never.

Q. Were the members all unanimous in their ſentiments, or did they ſometimes differ in opinion?

A. They were extremely divided in their opinion with reſpect to the ſame object.

Q. And yet the guilt of treaſon attaches to them all. Was there no Secret Committee?

A. None.

Q. Did they appoint frequent Committees of Correſpondence,

dence, and were these Committees in the habit of sending letters to different parts?

A. They appointed several Committees, but wrote letters only in one or two instances.

Q. So they wrote only about one or two letters in the course of ten years; a very alarming correspondence, and carried on to a very dangerous extent. There is one resolution entered into by the society, to print a hundred thousand copies of one paper, was that number ever actually printed?

A. No: they might print sometimes about 5000 copies, but never above 10,000.

Q. Do you recollect a great number of correspondents to whom the Society wrote in Scotland, England, or Ireland?

A. No.

Q. Did they receive a great many more letters than they answered, and were they very much reproached on account of that neglect?

A. Yes; frequent complaints were received on that subject.

Q. Do you recollect if another member sometimes went home with me at an early hour in the evening?

A. Yes; I believe you were sometimes accompanied by Mr. Sharp.

Q. When first you became secretary, was it the custom of the Society to print pamphlets and distribute them gratis?

A. Yes.

Q. And have they given up this practice for the last three or four years?

A. Yes.

Q. Can you recollect my saying on a particular occasion that the society would never do you any good; did I not advise you to go and give to the persons concerned in the department under government in which you are employed, all the information which you could respecting the society, and lay before them all the books and papers belonging to the society, of which you were in possession; and did I not say that I would justify you in such a measure?

A. I do not recollect the circumstance.

Q. Such, however, was the fact. As the privy council were in possession of your books of expenditure and receipt, they must have known what was the number of copies of any paper printed by the society, and can Mr. Adams guess why, when they inserted the orders that 40 or 50,000 copies of a paper had been ordered to be printed, the order had never been actually fulfilled?

A. I cannot possibly guess.

Q. Among

Q. Among the orders inſerted in the books of the ſociety, with reſpect to printing pamphlets the phraſe ſometimes occurs, "For the uſe of our correſpondents in Ireland," had the ſociety any correſpondents in that country?

A. None with whom I am acquainted.

Q. Did you not often hear me joke and laugh at the inſignificance of this ſociety?

A. I certainly did.

Q. Did you ever hear me expreſs myſelf in favour of univerſal ſuffrage? You ſeem rather confuſed or not rightly to underſtand the queſtion. Did you at any time hear me ſay that every man ought to have a vote in chuſing his repreſentatives?

A. I have.

Q. Then you are the only man who ever heard me ſo expreſs myſelf, as will appear anon from the other evidence. Do you recollect the circumſtance of Major Cartwright bringing forward in the ſociety four propoſitions of the declaration of rights?

A. It muſt have occurred before my time.

Q. Were you preſent at the anniverſary dinner of the ſociety on the 2d of May, or do you recollect what paſſed?

A. I was preſent: but do not recollect any thing that paſſed.

Q. Do you recollect to have been preſent at the anniverſary of the French Revolution, in the year 1790, when Earl Stanhope was in the chair?

A. I do not recollect.

Q. I find your recollection does not ſerve you on theſe particular ſubjects. Do you think, from my general conduct in the ſociety, that I puſhed them on to ſtrong meaſures, or kept them back?

A. Some queſtions I thought you put ſtrongly; in other inſtances you kept them back.

Q. Did you conceive from any thing that paſſed, that there was any intention to kill or depoſe the King?

A. By no means.

Q. Do you ſuppoſe it was ever in contemplation to take up arms?

A. No ſuch idea was ever entertained.

Q. Do you think we were either bold enough, or ſtrong enough, to have recourſe to force?

A. No.

Q. Nor I neither. What then do you conceive to have been the object of the ſociety?

A. The object of the greater part, I am perſuaded, was a Parliamentary Reform.

Q. You

Q. You did not conceive then that they were only ſly fellows, who ſaid one thing and meant another?

A. No; I conceive they meant all that they ſaid.

Q. You did not then conceive that whilſt they talked of a Parliamentary Reform, they in reality meant ſomething very different? you ſuppoſed them to be ſincere with reſpect to this object of reform: but did not you find them very much divided as to the manner of carrying it into effect?

A. The opinions on that ſubject were very various?

Q. Do you recollect the ſociety in Scotland ſending any letters which you did not anſwer?

A. I think I do.

Q. Have you kept back any part of the letters or papers of the ſociety?

A. None intentionally.

Q. Do you recollect ſoon before the papers were ſeized, the appointment of a committee of correſpondence on the 4th of April, 1794, and in what way that committee was appointed?

A. It was appointed in the uſual way.

Q. Do you remember that I being requeſted to become a member, ſtated that neither my health nor ſentiments would allow me to take an active part in the proceedings of that committee?

A. I recollect you ſaid your health would not allow you to become a member.

Q. I find afterwards that a committee of co-operation was appointed on the 11th of April, to which my name appears, a circumſtance of which I knew nothing till I ſaw it on the books. Was I ever preſent at that committee?

A. I don't know that you ever were.

Mr. *Tooke*.—I aſk theſe queſtions not to attach blame to others, for indeed I conceive the matters charged, to be in themſelves perfectly harmleſs, but only to puſh from myſelf, circumſtances in which I am no ways concerned.—Does Mr. Adams recollect the circumſtance of my having propoſed two books, in which where to be inſerted the names of thoſe who had, at different times, been members of the ſociety; the one to contain the names of ſuch as were entitled to their approbation; and the other, the names of thoſe who are deſerving of the gratitude of the ſociety?

A. Yes.

Q. Does he not alſo recollect that the mention of theſe books was accompanied with not a little laughing, and that though ſuch books were propoſed, they never were actually made?

A. I perfectly recollect theſe circumſtances.

Q. And yet on ſuch circumſtances as theſe, is to be founded a charge of high treaſon. Does Mr. Adams recollect ever to have heard me ſay, that I have not ſlept twice out of my own bed for ſeven years?

A. Yes.

Q. Has he not alſo heard me ſtate, that if there was to be a meeting of the friends of liberty for any good purpoſe at Wimbledon Common, in my own neighbourhood, I would certainly be there, though I was not diſpoſed to go much farther?

A. I recollect to have heard you make uſe of words to that purpoſe.

Mr. *Tooke.*—I have no heſitation to avow the ſentiment, for I certainly love liberty very well near my own home.

Chief Juſtice Eyre.—If the books of the ſociety had been read with this key, I muſt own they would have made a very different appearance.

Q. Do you not remember a toaſt which I gave at the dinner of the Revolution Society, in 1793, in the following words: "May the people of this country never forget or forſake the family on the throne, until it ſhall appear by their conduct that they have forgotten or forſaken the principles which placed them on it!"

A. I recollect that theſe were the very words.

Q. How long had the dinner club been eſtabliſhed?

A. About four or five years.

Q. Was not the principal object which I had in favouring its eſtabliſhment, in order that I might be able to get home the ſooner?

A. Yes.

Q. What was your opinion of the great end in view from the co-operation with the Correſponding Society?

A. In order to concur in the object of obtaining a Parliamentary Reform.

Q. Do you recollect if there were many perſons black-balled who offered themſelves to become members?

A. Not above ten while I was ſecretary.

Q. It does not appear to have been a very ſecret ſociety in which not above ten members were black-balled in ten years. Did Mr. Adams obſerve in the language or proceedings of the ſociety, an affectation or imitation of French terms and modes of expreſſion?

A. The books will tell.

Q. Yes. Did Mr. Adams ſend any notice to Saint Andre and Barrere, that they had been elected honorary members of the Conſtitutional Society, or was he deſired ſo to do?

A. No.

Q. Did

Q. Did he ever insert the speeches in the books, or had he any order for that purpose?

A. No.

Q. Was the newspaper in which those speeches were contained, ever in the society?

A. No, not to my knwledge.

Q. I ask these questions, because in the preceding trial I find that the bookseller who had sold the very papers, is brought forward as an evidence in order to criminate the society for not having them in their possession. Did Mr. Adams ever see or hear of Margarot's letter, printed in the reports of the secret committee, Appendix F. No. 12, in which occurs this passage, "We cannot say as much of citizen Sinclair, from the society "for Constitutional Information; he has been confined to his "bed ever since Saturday, by a violent fever and sore throat; "he is somewhat better this morning. He is a valuable young "man, and should he die, his loss would be severely felt, *not* "*indeed by his constituents, who have basely abandoned him*, but "by all the friends of freedom?"

A. I recollect such a passage.

Q. So much then for the countenance and encouragement given by the society to the measure of a convention in Scotland. Do you remember that I quitted London on account of ill health and infirmities?

A. Yes.

Mr. *Tooke.*—I am ashamed to have taken up so much time with this witness, but I think that it will tend upon the whole, rather to shorten than to delay the proceedings.

The *Attorney General.*—Mr. Adams, you have been led through a long train of questions, on a great variety of subjects; be so good as to look to the proceedings of the 11th of April, (shewing him a paper) beginning "Mr. Joyce made the report."

Q. You have said that the resolutions when taken down were not always in your own hand-writing; there are three resolutions stated, can you recollect what part, or whether any part of the third of these resolutions is in the hand-writing of Mr. Tooke?

A. These resolutions were copied by me from a rough draught; and I really cannot take upon me to say by whom they were written.

Q. In whose hand-writing are the resolutions of the meeting of the 24th of January, 1794?

A. They also were copied from a rough draught.

Q. Did you know that the London Corresponding Society had met four days before?

A. I never

A. I never attended any meeting of that ſociety.

Q. Turn back to the proceedings of the 17th of January, on which day Mr. Tooke appears to have been in the chair. In whoſe hand-writing are the reſolutions on that day?

A. The latter part of them is in my own.

Q. Do you mean then to ſay, that they were begun by another whom you cannot recollect, and then finiſhed by you?

A. I was often during the meeting called out of the room.

Q. You cannot then take upon you to ſay, by whom the firſt part of theſe reſolutions may have been written?

A. I believe that they may have been written by Mr. Bonney, but cannot be confident.

Mr. *Adams* was then examined as to the proceedings of the ſociety at a variety of periods, as recorded in the books. In ſeveral inſtances he could not ſwear to Mr. Tooke's hand-writing, nor even expreſs any belief or opinion upon the ſubject. In all theſe caſes Mr. William Woodfall was called to ſupply the deficiency of his evidence.

Being aſked by Mr. Tooke what he meant by the word ſociety, when he ſaid that ſuch and ſuch reſolutions were paſſed by the ſociety, he replied, he meant that ſuch reſolutions were paſſed by a majority of the perſons preſent, that majority did not always conſiſt of the ſame perſons even for the ſame evening; and he inſerted the reſolutions in the books without knowing who were the perſons by whom they had been carried. At one time when Mr. Tooke appeared by the books to have been preſent, the witneſs recollected from circumſtances that Mr. Tooke was not preſent.

The *Lord Chief Juſtice* obſerved to the Jury, that what they had heard from the books was merely to lay the ground for making admiſſible the papers intended to be offered as evidence on the part of the proſecution.

Several of the papers and extracts from Paine's Rights of Man produced on the trial of Mr. Hardy, were then read. Some delay ariſing in bringing forward the witneſſes to identify theſe papers,

Mr. *Tooke* ſaid, that to ſave time and trouble, he would admit ſuch of them as he knew any thing of.

The *Lord Chief Juſtice* ſaid he would not, in a trial of this kind, bind Mr. Tooke, even by his own admiſſion. The proof muſt be ſtrictly regular.

Mr. *Tooke* ſaid he was afraid that, by the formality of regular proof, the jury might be led to give more weight to theſe papers than they deſerved. When they ſaw an Attorney and Solicitor General taking particular pains, and conſuming time to

ubſtantiate papers, they might conceive that things which he conſidered as indifferent, were things of importance.

The *Lord Chief Juſtice* ſaid he had already delivered the opinion of the court.

Mr. *William Woodfall* was called to prove the hand-writing of the next paper produced. Mr. Tooke ſaid he admitted it. Mr. Woodfall's evidence was, however, taken.

A letter from Mr. Cooper, late of Mancheſter, was read.—The purport of it was to aſk Mr. Tooke's opinion of an abridgment of Paine's Rights of Man, which Mr. Cooper had been requeſted to make by the Mancheſter ſociety.

John Thompſon proved that this letter had been found in Mr. Tooke's houſe.

Mr. *Tooke*.—I know not what papers may have been taken from my houſe ſince I was taken into cuſtody. Are letters written to me to be produced in evidence againſt me?

The *Lord Chief Juſtice* ſaid, that all papers found in his poſſeſſion were admiſſible evidence. How the contents would apply to him would depend on proof that he had in ſome way or other acted upon them.

Mr. *Tooke* ſaid, that, if ſo, he might be convicted almoſt of any thing; for although he did not anſwer letters, he had letters ſent him of all ſorts. The day before he was taken into cuſtody, he received a letter affirming that the writer was God the Father, God the Son, and God the Holy Ghoſt, which was ſupported by various quotations from ſcripture.

The *Lord Chief Juſtice*.—If you can treat them all with as much ſucceſs as the letter of this correſpondent, you will not have much to fear.

Another letter from Mr. Cooper was read, ſtating that a paper ſent by Mr. Tooke could not be circulated, becauſe the printers of the Mancheſter newſpapers would not inſert it; aſking advice about ſetting up a democratic newſpaper, at Mancheſter; and complaining that he had received no anſwer to his former letter.

John Gurnell identified an original draft of the plan of the London Correſponding Society, found in the poſſeſſion of Mr. Hardy.

Mr. *W. Woodfall* proved that ſome alterations made in it, were the hand-writing of Mr. Tooke.

Thomas Maclean identified a letter from the Sheffield Society, addreſſed to Mr. Adams, and found in his poſſeſſion. The Counſel for the Crown ſeemed at firſt to think that ſufficient ground was not laid for reading this letter, but afterwards inſiſted on its being read. Mr. Erſkine and Mr. Gibbs objected, and after a ſhort argument, the Court decided that it ſhould be read.

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The *Lord Chief Justice* said, they were come to a time of night when it was necessary to consider of the future mode of proceeding. The Prisoner had said in the morning that he would not request an adjournment of the Court till the trial was closed, because he apprehended it to be contrary to law. On that the Court must decide, and before deciding wished to hear both parties.

The *Attorney General* said, the evidence for the prosecution would necessarily require a good deal of time, but he was ready to do his duty in whatever way the Court should direct.

Mr. *Tooke* said, he felt only for public justice on the occasion, not for himself. He left the matter wholly to the Court. He would make no request, for to comply with such a request against the known forms of proceeding would be improper. Where the law was clear, even the consent of parties could not justify a deviation from it.

The *Lord Chief Justice* said, Mr. Tooke was perfectly correct. Since the commencement of the former trial, the subject had employed much of the attention of the Court. The law, to which he did not know of any exception in point of precedent, was, more especially in criminal cases, that the Jury after being impannelled could not adjourn or separate, or have access to them allowed, till they had given their verdict. He quoted the case of the trial of a Peer, not before the High Court of Parliament, but by a Jury of his Peers, where the twelve Judges being consulted, delivered this as their opinion on the general principle which guided the Courts in which they presided; but they gave no opinion as to the rule for any other Court. Hence it was clear that there could be no separation or adjournment, except in cases of such evident and urgent necessity as unless yielded to would defeat the ends of justice upon which the principle was founded. In a case where it was manifest either that the evidence could not be fully heard, or that human faculties without relaxation must be unequal to the task, to insist on proceeding according to the strict rule would be to deliver over the life and honour of the Prisoner, and the justice of the country, to the mere accident of such a verdict as the Jury might give when reduced to a situation in which they could not possibly exercise their understanding. The former trial had taken up two hundred hours; and even in the way in which it was proceeded upon, he had felt the fatigues. If one Judge were to sink under the fatigue, one of his brothers on the Bench might supply his place; but if a Juryman were to be destroyed, the trial must begin anew, with this disadvantage to the Prisoner, that he might come to trial the second time, after the greater part of his means of defence had been disclosed. Necessity, well established, might therefore over-rule or modify the general principle,

ciple, provided the trial was proceeded on with all possible diligence. He would not put the prisoner upon asking any thing; for he was clearly of opinion that the Court ought to take the whole upon itself.

The *Lord Chief Baron* said the principle was, that after the Jury were impannelled, they should be inaccessible. The mode of effecting this, had hitherto been, by not suffering them to go out of Court. But if, in a case of evident necessity, this was secured in some other way, the principle would not be essentially trenched upon. He was also of opinion that the prisoner had nothing to do with settling this, and that it ought to be decided by the Court.

Mr. *Tooke* then said, he was afflicted with a very painful disorder, which made it necessary for him to be up four hours before he could come into Court, and if some time were not allowed him for sleep, it would be impossible for him to hold out.

The *Lord Chief Justice* asked what the Court could do, with an assurance that every possible allowance for Mr. Tooke's infirmity should be made. It was intended to begin at nine in the morning precisely, and to go on till nine at night, allowing only in the middle of the day, a quarter of an hour for refreshment.

Mr. *Tooke* said, this arrangement would allow him all the time he wished for.

At half an hour past ten, the Court was adjourned, and the Jury were conveyed to accommodations prepared for them at the London Coffee-house.

Most of the Jury who served on Mr. Hardy's trial attended in the morning, but they were excused from serving again.

SECOND DAY.

TUESDAY, NOV. 18, 1794.

The Court sat a few minutes after eight o'clock in the morning. Some Papers of the Society for Constitutional Information were produced by a witness of the name of Maclean, and Mr. William Woodfall proved parts of them to be of the hand-writing of Mr. Tooke. These evidences related to papers of the Corresponding Societies of Sheffield, Manchester, and various other places. All of these were printed in the Reports and Appendix to the Reports of both Houses of Parliament, and were read on the Trial of Mr. Hardy; they were

were all dated March down to November, in the year 1792, and appeared at that time in moſt of the newſpapers of town and country. All of theſe Papers belonged to the Society for Conſtitutional Information, and were on the Minutes of their Proceedings; nothing among them was new to the public, except that many of the alterations in the entries of the minutes of the proceeding, and many of the drafts of reſolutions, were in the hand-writing of Mr. Tooke.

They then proceeded on the part of the Crown, to prove the Reſolutions of the Society for Conſtitutional Information of May, 1792, relative to an Addreſs to the Jacobins of France, and of their being ordered to be publiſhed in the newſpapers; then followed Mr. Paine's Letter to the Conſtitutional Society, propoſing to print a cheap edition of the Rights of Man, on which the Society voted Thanks to Mr. Paine for his communication in ſupport of the Rights of the Nation, and the Liberty of the Preſs, &c. Then followed the Addreſs itſelf to the Jacobins in France, and after it an account of the numbers directed to be printed and diſtributed of Mr. Paine's Letter to Mr. Secretary Dundas, &c.

The next point in evidence was the ſubſcription to ſupport Mr. Paine, after it was diſcovered he was to be proſecuted for the Second Part of the Rights of Man, &c.

The next article was an account in the Book of the Conſtitutional Society, of the expenditure of the Society laid out by Mr. Adams, who acted as their Secretary; by this it was formally proved that reſolutions and other proceedings were publicly advertiſed in the newſpapers, the ſums paid for the inſertion of them were ſpecified, and it appeared that ſome of the conductors of papers had refuſed to inſert the proceedings of the Society.

Several paſſages of the Second Part of the Rights of Man were then read, in order to apply to the Defendant an evil intention, in voting thanks, ſubſcriptions, &c. to the author.

Theſe readings being over,

Mr. *Tooke* ſaid, now that theſe parts of the book had been read, and the book made evidence, he believed he had a right to requeſt that the preface to that book be read.

The Court accordingly ordered the preface to be read.

James Thornton, Clerk to the Police-office, in Marlborough-ſtreet, proved a letter from Mr. Hardy to Mr. Tooke, deſiring him to reviſe an Addreſs of the London Correſponding Society, and aſking him whether it would not be prudent to ſend a Copy of it to the London Conſtitutional Society?—This letter was found in Mr. Tooke's houſe.

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On his cross-examination by Mr. Tooke, he said, he did not recollect in what part of the house of Mr. Tooke he found the letter. Mr. Ford attended on the search for these papers, and there were other persons at this time in the house.—They did not take away with them all the papers in the house.—Mr. Ford sent some to him; but there were others who had papers from the house as well as himself; and he had not the custody of any of them now.

Mr. *Tooke*.—"I want to know, and to understand, if I can, how it comes to pass, that, when a number of men enter into another's house, all of them take the custody of papers—for one to take them, and then another to have the care of them? I want also to know what was taken from my house, in order that I may guess what was left in it; for, if I do not know that, I cannot tell what I have lost, as there are, or there were, in my house more papers than this Court can examine in one year."

The Witness, being asked by Mr. Tooke, said, he did not know that Mr. Frost and Mr. Vaughan, who were there, took any papers.

On his examination by the Attorney General, the Witness said, that he believed Mr. Frost and Mr. Vaughan were in the house as friends of Mr. Tooke; that Mr. Vaughan took a list of books and papers that were taken away.

Mr. *Tooke* (to the Witness)—"You say, Mr. Vaughan took a list;—others took papers away as well as yourself: now, I want to know, whether you know Mr. Vaughan to be possessed of such sense as to know what another man knows; or, if you have such sense as to know that which another man knows?"

To this there was no answer.

A letter found by the Witness (Thornton) in Mr. Tooke's house, was then read: it was to the following effect:

"M. Margarot wishes to submit it to Mr. Horne Tooke's consideration, whether a plan may not be adopted for obtaining the assent of all the different Societies throughout the nation to an animated, but safe declaration, assuring the People of France, that we entertain the most friendly disposition, &c. &c. towards them; and that we will, to the utmost of our power, discountenance all hostile attempts on the part of Ministry, should the latter be base enough to forfeit the nation's pledged faith of fraternity. M. M. conceives that such a measure would do more good than a partial, and perhaps, comparatively speaking, an inconsiderable subscription; which, however, would be no ways impeded thereby. A similar declaration would certainly quiet their jealousies with regard to the English, and would encourage them in their arduous strug-

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gle, while the number of well-wishers to their cause, who might come forward only with their signatures to the declaration, will give a most severe check to all open or under-handed ministerial attempts."

Mr. *Tooke* then asked the Witness, Whether he did not understand, at the time of finding this letter, that an attempt to quiet the French would be a measure which the present Administration would be glad of?

Mr. *Bower* said, that Mr. Tooke, he was sure, must immediately see the illegality of such a question, for it was asking a Witness his opinion on the contents of what he produced in evidence.

Mr. *Tooke* said, that as the letter was found at his house, he only wished to shew that no evil was intended to be produced by it; however, he should not persist in putting the question, as the Counsel for the Crown objected to it.

The next evidence was that of a letter from Mr. Hardy to Mr. Tooke, dated the 16th of September, 1792, of which the following is the substance:

"Sir,

"Mr. Margarot would be glad to know your opinion on the proposition he has submitted to your judgment. I think with him that it would have a good effect, and at the same time the subscription would go on as it now does. Ten or twenty thousand signatures would have more weight than as many thousand pounds, for ten men might subscribe the sum,

Your humble servant,

T. Hardy."

The Evidence then called, related to addresses of the Societies, by way of Thanks, to Mr. Barlow, &c. for his book, and afterwards, the Address presented at the bar of the National Convention, on behalf of the Constitutional Society (in the proceedings of which Mr. Tooke assisted), and of the account of the manner in which they were received and answered, and then the Thanks of the Constitutional Society for what had been thus done, &c.

Mr. *Thornton* proved his having found at Mr. Tooke's house, a draft of a Letter, which Mr. Woodfall thought was of the hand-writing of Mr. Tooke.

The substance of the Letter was, that 4000 Livres were sent with it to Paris, to assist the French in defraying the expence of the War, against all Tyrants who might oppose the Liberty of the French, without excepting any of them, even if it should be his own Country, and wishing to know the name of a Merchant in London, who might be trusted to receive subscriptions, &c.

The next Letter was said to be an answer to the last, and found in Mr. Tooke's house, purporting to come from Mr. Pethion, the then Mayor of Paris, acknowledging the receipt of the former, politely returning thanks, and giving assurance, that the name of a proper Merchant for the required purpose in London, would be sent soon, &c.

One of the Jury asked the time of sending the first Letter.

Mr. *Erskine* said, it must be long indeed before the war between France and us, if it was when Pethion was Mayor of Paris.

The Jury having retired a few minutes for some refreshment, when they returned to their Box, the Counsel for the Prosecution proceeded with the written evidence. A letter was read from the Editors of the Patriot, at Sheffield, to the Secretary of the Society for Constitutional Information, and the Minutes of a Meeting of the Society on the subject of this letter. A letter was then read from Stockport, to Mr. Hardy, Secretary of the London Corresponding Society. They were proceeding with some other papers, when

Mr. *Erskine* remarked, that he understood they were going to read the draft of an answer meditated to have been sent by Hardy to the letter from Stockport, and found in his possession; and asked upon what principle of justice or common sense such a letter could, in the present instance, be brought as evidence against Mr. Horne Tooke?

Chief Justice *Eyre*.—" That objection has already been so often made, that I am rather surprized to find it should be again repeated. The letter in question is brought as evidence against Hardy."

Mr. *Erskine*.—" He, my Lord, is acquitted; and how can that which was insufficient to convict him, be brought as evidence against the Prisoner?"

Chief Justice *Eyre*.—" The charges brought against the Prisoners, relate to transactions in which several persons, and among others, Hardy, were involved; though a Jury have determined that the share which Hardy had in those transactions was not criminal, it does not however prevent whatever is connected with them from being evidence against the Prisoner."

The reading of some other papers finished the written evidence for 1792, when the Clerk proceeded to read from the Minutes of the Society for Constitutional Information, those Resolutions which passed in the beginning of 1793, appointing St. Andre and Barrere Honorary Members, and ordering their speeches to be inserted in the Books of the Society.

J. De Bosse

J. De Boffe was called to prove copies of the Moniteurs, in which those speeches were contained, which he had regularly received from Paris, according to their respective dates.

Cross-examined by Mr. Tooke.

He said that he had never been in prison, that he had never been prosecuted, or threatened with a prosecution. Upon being asked, Whether he had been frightened? the Counsel for the Crown interfered, and said, "it was surely unnecessary to investigate what effect a subpœna might have upon the nerves of a Witness."—The Witness stated that he had sold as many papers as were ordered by regular subscribers; he sold them because they were sold by other people, under the protection of the law, particularly by the Clerks at the Post-Office; and he conceived that had the sale of these papers been either illegal or improper, it would not have taken place in a department under the inspection of Government.

Mr. *Tooke.*—"I have no more questions to ask. You are a very honest man."

The Clerk then proceeded to read the correspondence from Norwich with the Societies in London, and then the minutes of the Convention held at Edinburgh, papers of which, as they were repeatedly brought forward in the preceding trial, and as they are to be found in the Reports of the Secret Committee, it is unnecessary to take any particular notice.

Mr. *Tooke.*—"My Lord, I cannot see how any evidence with respect to the proceedings of the Convention at Edinburgh, can possibly apply to me. It has already been proved by the witness for the Crown, that though my name is to be found in the books, I was not present at the meeting on the 25th October, 1793, when it was resolved to hold an extraordinary meeting a few days after, to consider of the measure of holding a Convention at Edinburgh. At the extraordinary meeting, on the 28th, I was likewise not present, but my name is not to be found on the books on that day. But not only has it been proved that I was absent, but that I was even averse to the measure; that I quarrelled with others on the subject, and was abused on that very ground. Is it fit and proper, then, that papers should be read to make an impression on the minds of the Jury to my prejudice, when it has already been proved that their contents ought not to affect me personally in the smallest degree?"

Mr. *Law.*—"The subsequent approbation of the proceedings of the Scotch Convention will be brought home to you by

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the minutes of the Society of 17th Jan. 1793, when you were in the Chair."

Chief Justice *Eyre*.—"The general plan of the proceeding requires that every thing connected with the transactions should be read. At the same time the remark of the Prisoner is extremely fair."

Mr. *Tooke*.—"The reading of those proceedings of the Convention will be afterwards extremely useful for my defence. I only made the remark to save the time of the Court."

The clerk then read the minutes of the Constitutional Society, on the 10th and 17th January, on both which days Mr. Tooke was in the chair.

Mr. *Tooke*.—"I beg that the minutes of the meeting of the 17th may be read over again. The Counsel for the Crown said that by these minutes an approbation of the proceedings of the Scotch Convention would be brought home to me. On that day it appears that four resolutions passed; I was present during the passing of the three first, and then quitted the Chair, when Mr. Gerald was called to it, and a fourth resolution, approving of the proceedings of that Convention, as was extremely natural, to which he had himself been a Delegate, was passed."

The minutes were accordingly read over, and ran exactly in the terms that had been stated by the Prisoner.

A resolution was then read in the hand-writing of Mr. H. Tooke, ordering an Address of the Corresponding Society to be inserted in the books of the Society for Constitutional Information.

Mr. *Tooke*.—"Does this resolution refer to an address of any particular date?"

The *Attorney General*.—"It refers to no date—although it very evidently applies to the Address of the Corresponding Society of the 20th of January, 1794.—I hope I am not wrong when I remark once for all, that when I state any thing to be proved, I always leave it to the Jury to determine what weight it shall have in their judgment."

A circular letter in the hand-writing of Mr. Tooke, and signed by him, sent to all the members of the Constitutional Society was then read, and the following is the substance of it:

"I am directed by the Society for Constitutional Information, to write to all the members of the Society, requesting their contribution towards the support of Mr. Sinclair. When the Delegates from the different Constitutional Societies in Scotland, lately met at Edinburgh for the purpose of consulting together, and concerting the measures which might be proper to

to be purſued, in order to obtain a fair repreſentation of the People of Great Britain in Parliament, Mr. Sinclair attended as Delegate from the Society for Conſtitutional Information, and behaved on that occaſion with a moderation and temper which has not only been juſtly approved, but has much endeared him to this Society. For that conduct, which we highly approve, Mr. Sinclair was indicted in Scotland, and returned to London upon bail. Since that time Mr. Skirving and Mr. Margarot have been ſentenced in Scotland, for the ſame conduct as Mr. Sinclair, to fourteen years tranſportation. With the fate of Meſſrs. Palmer, Muir, Skirving, and Margarot before his eyes, Mr. Sinclair has returned to Scotland in diſcharge of his faith as a private man towards his bail, and in diſcharge of his duty towards an oppreſſed and inſulted public —he has returned, not to take a fair trial, but as he is well perſuaded, to a certain conviction and ſentence. Theſe ſentences of tranſportation are novel both to England and to Scotland, and exceed in cruelty and impudence any thing practiſed in the odious and abhorrent reign of the Stuarts, and theſe ſentences are to be carried into execution under the adminiſtration of Mr. Pitt, and by him, who formerly, though hypocritically and treacherouſly, profeſſed himſelf a ſpecious advocate for parliamentary reform, and himſelf met the delegates throughout England, aſſembled in Convention at the Thatched-houſe tavern, for the ſame purpoſe as that which a Convention met in Scotland. Should it one day be the fate of this Mr. Pitt to be tried by the people of this inſulted and oppreſſed country, for his treachery to the cauſe of parliamentary reform, we truſt they will never conſent to ſend him to Botany Bay. In the mean time we earneſtly ſolicit your aſſiſtance to alleviate the ſufferings of Mr. Sinclair in his ſituation, and afford him every comfort in our power under this his honourable and meritorious conduct, in which, and in worſe, if there be worſe, we declare ourſelves ready to follow him in purſuit of the ſame object, viz. a fair Repreſentation of the People in Parliament.

(Signed by order of the Society)

John Horne Tooke, Chairman."

Some of the proceedings of the Norwich Society to the London Conſtitutional Society, and other papers, were then read, as alſo a letter from Meſſrs. Margarot and Gerald to Mr. Hardy, giving account of the progreſs of the Convention at Edinburgh: a letter was alſo read from Mr. Margarot on board a ſhip at Spithead, expreſſive of great affection for the liberties of this country, &c.

The Court adjourned at nine o'clock.

THIRD

THIRD DAY.

WEDNESDAY, NOVEMBER 19, 1794.

The Court met about nine o'clock, when the counsel for the prosecution proceeded with the written evidence. As almost all the papers read were brought forward on the former trial, and proved by messengers to have been found in the possession of different persons belonging to the societies, or charged in the indictment; it will be less necessary to enter into any particular enumeration of the titles of these papers, or detail of their contents. The clerk read the correspondence that passed between Hardy and Skirving, on the subject of holding a Convention in Scotland.

Mr. *Williams* was called to prove Thelwall's hand-writing, and being shown a letter, said, that he believed it to be his signature. The letter of Thelwall was then read, addressed to Citizen Jack Wells, in which he stated that he had sent him two dozen of his songs, which he might give to any persons who could sing them, as they were calculated to do a great deal of good; they sold like wildfire. In this letter he mentions an Address, which was partly his own composition, and partly that of Mr. Horne Tooke. He concludes with the expression "that the wise men of Gotham would quickly be obliged to call back their troops from the triumphant Republic of France."

Alexander Grant was called to prove a paper in the hand-writing of Hardy. He first said that the paper was so very different from what he had seen before in the hand-writing of Hardy, that he did not believe it to be his. He then said that it was very like the hand-writing of Hardy, and was so confused and contradictory in his statement, that he was dismissed from the bar without any thing being made from his evidence.

Some resolutions were then read, which were interlined in the hand-writing of Mr. Tooke.

Mr. *Tooke*.—"I recollect upon that occasion, the chairman being indisposed, to have taken a very idle part."

The *Attorney General*.—"My Lord, because the prisoner takes an active part in his own defence, it surely cannot be permitted that he should thus break in upon the evidence, and take liberties which no counsel would be suffered to take."

Mr. *Gibbs*.—"In a case like the present, of life and death, none can be so intimately acquainted with the particular circumstances,

cumſtances, or ſo well qualified to make remarks upon the evidence, as the priſoner himſelf."

Mr. *Tooke*.—" My Lord, when I was interrupted by the Attorney General, I was only going to remark, that the clerk in reading the reſolutions, had read what in reality makes no part of them. There are two ways of eraſing, either by ſtriking through the paſſage, or by drawing a ſcore round it. The clerk read that part of the reſolution round which a ſcore is drawn."

The *Chief Juſtice*—" This is not a proper time to make the remark. At preſent the paper muſt be read as it is: the conſideration of the paſſage intended to be ſtruck out, as well as the whole of the contents, muſt be left to the Jury."

The *Attorney General*.—" I ſhall take the liberty to follow the example of the priſoner, and go a little out of the way in remarking, that I ſhall afterwards have a great deal to obſerve on that very circumſtance of the words being ſtruck out in theſe reſolutions."

The clerk then proceeded to read various letters from ſocieties in Scotland, expreſſing their readineſs to ſend delegates when they ſhould be required, to a Convention in England; and from ſocieties in Briſtol and Newcaſtle upon Tyne, to pretty much the ſame purpoſe.

The clerk then read the printed account of the proceedings of the Faſt-day at Sheffield, 28th February, 1794; and the approbation of thoſe proceedings by the Society for Conſtitutional Information. The counſel for the Crown called the witneſſes for Sheffield.

William Broomhead gave a depoſition in all points exactly correſponding with what he had ſtated on the former trial.

George Widdiſon ſtated ſome points more fully than he had done before. He ſaid, that violence had been conſiderably inflamed at Sheffield, in conſequence of a perſon, whoſe name he did not recollect, repeatedly recommending, to the party called Ariſtocrats at Sheffield, to take up arms. He ſaid, that the members of their ſociety were frequently threatened by the other party, that, in caſe the French ſhould attempt an invaſion, they would immediately fall upon us.

Upon being aſked to name who had uttered ſuch a threat, he ſaid he could not particularly recollect: it was a general threat frequently repeated; he recollected by name only one perſon who had uttered it, William Frith, afterwards a member of the Sheffield Aſſociation.

Upon being aſked, whether he had ever applied to a magiſtrate for protection, and whether Mr. Wilkinſon, a magiſtrate in the neighbourhood, had not once interfered with a troop of

of dragoons to quell a disturbance in the town of Sheffield, he said, that until the time he appeared with a troop of dragoons there was no disturbance of any consequence.

Q. What! a house was set on fire, and a man hanged for it: I was employed as counsel on the occasion. So, Mr. Wilkinson and the dragoons set fire to the house, and occasioned all the disturbance?

Mr. *Gibbs*.—"My Lord, I claim the protection of the Court for the witness. Mr. Law puts into his mouth expressions which he never uttered."

Mr. *Law*.—"I wished to ask from the witness, whether he meant to impute to Mr. Wilkinson the charge of setting fire to the house?"

Witness.—I considered his interference as a principal cause of the disturbance that followed. The cause is thus: the people were dissatisfied with the taking in of a common, they opposed the measure; and the mode of interference adopted by Mr. Wilkinson at the head of a troop of dragoons, appears in my mind to have inflamed their opposition, and to have led to the consequences which took place on that occasion.

Q. Did you on any occasion apply for protection to a magistrate?

A. I was once in a public-house, where a dispute arose on the subject of politics; in consequence of the part I took in that dispute, I was exceedingly ill-treated, and made a complaint to a magistrate, not to Mr. Wilkinson, but had no redress.

Q. You approved of the works of Mr. Paine?

A. I admired some passages in favour of freedom, though I was not prepared to go all the lengths he did. I was for the Duke of Richmond's plan of reform, and approved of the sentiments of Mr. Paine, so far as they coincided with those of his Grace.

The letter from Sheffield, addressed to Hardy, was read.

E. Evans was called to prove a paper of resolutions prepared by Martin, with a view to being brought forward at the meeting at Chalk Farm.

Cross-examined by Mr. Tooke.

Said that he knew a Mr. Gay, did not know where he lived, believed him to be a member of the same society as Martin, and employed as a messenger to the society.

Q. Do you know a Mr. Nicholas Gay?

A. No—the person whom I am acquainted with is named Richard Gay.

Q. Did

Q. Did you underſtand that he was a great traveller?

A. No—when I knew him he was in the King's Bench.

Mr. *Tooke*.—My Lord, theſe queſtions may ſeem impertinent. I put them in order to ſhew what groſs impoſitions have been practiſed on the gentlemen who conduct the proſecution for the Crown in the preſent inſtance. I underſtand that in conſequence of what was given in evidence by this witneſs, the Attorney General pledged himſelf to ſhow that I had introduced Mr. Gay to the ſociety. I was acquainted with a Mr. Nicholas Gay, who was in the habit of travelling all over Europe, he dined with the ſociety once. A ſtrange incident occurred to him about twelve months ſince in a coffee-houſe, where he was telling ſome gentlemen "that he was going to Ruſſia," upon which a ſpy in the next box, ſtretched out his neck, and aſked where the gentleman was going? "Upon my word," anſwered one of the company, "he is going much farther than I dare to ſay."

The clerk then read the reſolutions prepared by Martin, and intended to have been brought forward at Chalk Farm; the printed account of the proceedings at Chalk Farm, and of the anniverſary dinner of the Society for Conſtitutional Information, at the Crown and Anchor, May 2, 1794.

ORAL EVIDENCE.

Mr. *William Sharp* was then called. He depoſed, that he had been for two years a member of the Society for Conſtitutional Information. He did not recollect by whom he had been propoſed. [Mr. *Tooke* ſaid, he had been propoſed by him.] He continued to attend the ſociety at different times till May, 1794. He was preſent at a meeting when a letter came from the Correſponding Society. He was alſo preſent when five members came from the ſociety; he had never ſeen them before. He was one of five appointed by the ſociety for a conference with thoſe members. He does not recollect dates, not having taken memorandums with a view to any examination before a Court of Juſtice. He does not believe that he was preſent when a report was made on the 11th April. He was a member of the committee of delegation of the Society for Conſtitutional Information, and was propoſed for that purpoſe by Mr. Tooke.

Croſs-examined by Mr. Tooke.

Q. Mr. Sharp, why did you ſuppoſe that I nominated you to be a member of that committee?—Did you not conceive

 that

that it was in consequence of the good opinion I had formed of you?

A. I certainly did.

Q. Did you not once hear me say "That I had rather be governed by St. James's than St. Giles's?"

A. I perfectly recollect you made use of that expression.

Q. You were often at my house, you are therefore able to give an account of the manner of my private life; our acquaintance I believe first commenced in consequence of my being desirous that you should teach my daughters to engrave?

A. It did.

Q. Did I keep a horse?

A. Yes.

Q. Did I ride much?

A. Only once I believe in a period of two years.

Q. Did I walk much in the neighbourhood?

A. Not above twice in the same period.

Q. How then did I spend my time?

A. In the morning you were employed in your garden, during the day you were much engaged in looking over books, chiefly ancient authors, with a view, as I always understood, to some great work, and in the evening you amused yourself with a game at whist.

Q. Do you recollect the circumstance of my receiving an anonymous letter from Ireland, inclosing a letter from Paine, and what use I made of it?

A. You put it in the fire without opening it.

Q. Do you recollect where we dined on the 15th of May, the day before I was apprehended?

A. At Spital-square.

Q. Do you remember the conversation that then took place in consequence of my having promised to make out from the Red-book, a list of the places, sinecures and pensions enjoyed by Mr. Pitt and his relations, and that in consequence Joyce had sent me a letter reminding me of my promise, which had been intercepted, and that there was a good deal of laughing on the occasion?

A. I perfectly recollect the circumstance.

Mr. *Tooke*.—It may be proper to explain the business of this letter, which I verily believe forms the whole of the plot, and was the real cause of my being taken up. I had, as I have stated, promised to make out the extract from the Red book, in consequence of which Mr. Joyce, with whom I was not in habits of corresponding, sent me a letter to the following purpose:

"*Dear*

"*Dear Citizen,*

"Hardy was this morning taken up, and all his papers and books seized. *Is it possible to get ready by Thursday?*" (alluding to the extract which I had promised.)

This letter, it seems, was intercepted, and laid before the Privy Council. Both the subject, and the manner in which it was conceived, excited great alarm, and the next day I was taken up.

Q. The day we dined at Spital Square, did you see any light horse?

A. Yes; I was told they were passing, and just saw the last from the window.

Q. Had you any reason to believe that they were sent there in consequence of the letter which had been intercepted?

A. Yes; we were of that opinion at the time, and a day or two afterwards a military gentleman told me that they had received particular orders to be in that quarter.

Q. You used often to go with me from the society to Wimbledon. At what hour did we generally set out?

A. Generally at a very early hour in the evening.

Q. Did I seem active to push on the society to business. Was I not always desirous of long adjournments?

A. Yes; I recollect that I heard some members complain of your propositions for long adjournments.

Q. Perhaps you have heard me wish that an Act of Parliament should be passed making it death for me to go out of my own walls?

A. I remember that you once made use of such an expression.

Q. Was there any thing secret in the Constitutional Club?

A. No; visitors were admitted.

Q. Did the members of the society give themselves the trouble to read the books which contained the accounts of their proceedings?

A. Not at all.

Q. Were the members all of the same way of thinking, or were they given to debate?

A. They differed widely in their opinions, and frequently contradicted each other.

Q. Was there any secret committee?

A. No.

Q. Was there not frequent mention of a correspondence with different places, when in reality, there was none?

A. None with which I was acquainted.

Q. Do you recollect what was my opinion of universal suffrage?

A. You were always against it.

Mr. *Tooke.* My Lord, I do not ask these questions because I conceive such opinions to be criminal, because they are in opposition to my own sentiments, by no means; such opinions, I think, may be held with perfect innocence; but at present, it is only my wish to bring out facts as they respect myself.

Q. Did you ever hear me say any thing against the Constitution?

A. You alawys spoke for it.

Q. Do you recollect that I opposed the holding a Convenvention at Edinburgh?

A. I do not recollect.

Q. You may remember, perhaps, that I was abused on the score of the opposition which I gave to a particular measure?

A. I received a letter from the country, complaining of your conduct, and stating that you had been bribed by Government to desert the cause of Freedom.

Q. Do you recollect a letter which I wrote soliciting a subscription for Sinclair, and a distinction which I took upon the occasion, between approving the conduct of a man in the first instance, and assisting him afterwards in difficulty, when we believed his intentions to have been good?

A. I remember the distinction very well.

Q. You know I had always company to dinner on Sunday: you generally were present.—At what hour did they come; and how was the conversation carried on?

A. The company came between two and four, and generally departed before nine. The conversation was perfectly open, and any friend of yours often brought an acquaintance whom he met along with him.

Q. Did you ever hear me say, that, if any troubles should happen in the Country, I expected to become the first victim, and the reason I assigned for that opinion?

A. I have heard you say so; and the reason which, I think, you assigned, was, that you had always opposed all parties, in views which you conceived to be mischievous.

Q. You were present at the Anniversary Dinner on the 2d of May.—Do you recollect any thing that I said on that occasion?

A. I was at the bottom of the room, and could not distinctly hear what you said; but was told that you had made an Aristocratic speech.

Q. Was it very difficult to be admitted a Member of the Society for Constitutional Information?

A. Very few who offered themselves were rejected.

Q. Did

Q. Did I seem remarkably diligent, or careless about the business of the Society?

A. You seemed rather careless.

Q. Do you believe that what I professed with respect to a Parliamentary Reform, was merely a pretext?

A. I believe what you professed to be your real sentiments, and that you wished only to have a Reform in the Commons House of Parliament upon the principles of the Revolution.

Q. Was you ever taken into custody, and upon what charge?

A. I was taken into custody by a warrant from the office of the Secretary of State, upon a charge of treasonable practices.

Q. Do you believe that the Society had any other object than a Parliamentary Reform, or that they ever intended force?

A. Never.

Q. What was the great end for which you co-operated with the Corresponding Society?

A. A Parliamentary Reform.

Q. Do you recollect that the Society ever printed a hundred thousand copies of one paper?

A. No.

Q. Did not you constantly hear me defend the Establishments both in Church and State, against all who attacked them?

A. I certainly did.

Q. When I defended the Church Establishment, did you at the same time conceive me to be a bigot to its doctrines?

A. I thought that you had no religion at all.

Q. You mean I gave no preference?

A. Yes. You read on all subjects, and left every one to judge for themselves. You were the constant advocate of liberality of sentiment and freedom of belief.

Q. You do not conceive that I would have eat a little child without dressing?

A. Certainly not.

Q. It was not understood as one of the regulations of our Society, that any Member who entered it had a right, if he chose, to knock down a bailiff or a constable?

Mr. *Horne Tooke* was proceeding in this ludicrous stile of interrogatory, when he was interrupted by the Judge as exceeding the bounds to be permitted in examining evidence, consistently with the decorum that ought to be observed in a Court of Justice.

Christopher

Christopher Hall was examined as a Member of the Constitutional Society, but he was unacquainted with the facts which Mr. Garrow wished to know.

Some other evidence was adduced of papers, particularly of the Address of Mr. Paine at Paris, and here the prosecution closed their case.

PRISONER's DEFENCE.

At half past four in the afternoon, Mr. *Erskine* rose as Counsel for Mr. Horne Tooke, and entered with such masterly eloquence into the case, as to excite the admiration of the crowded Court.

"*Gentlemen of the Jury,*

"When I compare the situation in which I now stand up to address you, with that which I was placed in a few days ago in this place—when I reflect upon the emotions which then almost weighed and pressed me down into the earth, with these which at this moment, oppressed as I am with fatigue and illness, animate and support me, I scarcely know how to bear myself, or how to shape my course.

"I stood up in this place to defend Thomas Hardy, not alone indeed, but supported by my excellent and learned Friend who sits by me."

[Some men busy at work, who disturbed the Court, the Chief Justice sent out to prevent the noise.]

Mr. *Erskine* then said, that the interruption afforded him an opportunity of repeating the same sentiment again concerning Mr. Gibbs, who was very dear to him, and then went on thus.

"I stood here as counsel for a lowly, obscure mechanic, known only to persons obscure like himself, and I had to contend with what no man in England ever before had to contend with—I had to contend, in the first place, with the vast and extensive authority and influence of the Crown of England; I will not, after the late verdict, call it the crushing authority.

"I had to contend against the dear, just, and natural interest which the subjects of this country must and ought to have in the preservation of the chief magistrate, appointed to execute the laws.

"I had to struggle with, the more generous and benevolent interest, characteristical of Englishmen, for the life of the Prince, to whom no personal blame is imputable, and who

suffers

ſuffers more than any of his ſubjects, from the enormous abuſes in the Gooverrnment.

" I had to ſtruggle with this under circumſtances peculiarly adverſe. Under an alarm propagated in part by honeſt zeal and enthuſiaſm againſt the Societies, whoſe acts I am defending—but propagated under the deteſtable domineer of the loweſt and blackeſt hypocriſy, which ever degraded the human character. The community being partly bribed, partly tempted, and partly duped to decry what had been formerly upheld as meritorious.

" I had to fight with this, not in the face of an enlightened, in an ordinary ſeaſon, but at a time when the face of the earth was drawn into convulſions—when mighty revolutions were ſhaking the earth, when bad men were trembling for what ought to follow, and good men for what ought not. When all the principles of our free conſtitution, under the impulſe of a deluſive or wickedly infuſed terror, ſeemed to be trampled under foot.

" But under all this preſſure I could have looked up for protection under other circumſtances. I could, as repreſenting one of the people in a fearful extremity, have looked up to the Repreſentatives of the People; to that mighty Tribunal above all law, and the parent of all the protections which the law affords to the ſubject—I could have looked up to the Commons of England, to hold up its ſhield before the ſubject againſt the Crown.

" But in this caſe, that ſhield of the ſubject, I found a ſharp and deſtroying ſword in the hand of the enemy. The protecting Commons was itſelf by corruption and infatuation the accuſer; inſtead of ſtanding up for the ſubject, it acted as an Old Bailey ſcholar to prepare the briefs for the Crown. The whole cauſe had been read from the Reports of the Commons; no original labours of theirs, but collected from the files of newſpapers, which every man had ſeen in every coffee-houſe for years together. I had therefore to contend againſt an impeachment without the juſtice of ſuch a proceeding. When a man, though a Commoner, is impeached, he is ſent before the Lords for trial as a privilege, becauſe all the Commons are in law ſuppoſed to be pledged by the accuſation of their repreſentatives.

" The Lords, therefore, as being a balance againſt the Commons, is the refuge of an Engliſhman ſo impeached.

" But for this poor man there was no refuge. The Lords, themſelves, were joint accuſers; private Lords in office preiudged the cauſe, and inſolently dictated what judgments

Judges ought to give, and Juries to pronounce. I had, besides all this, to contend with an army of the most learned men in the profession, with all the weight and trapping of station.

"I had to wade through matter, which not only no mind can investigate, or bodily strength support to state, but to the utter disgrace and extinction of English criminal justice, which no porter could carry on his shoulders.

"I had to contend with a case which the Judges declared to be so new, that they were obliged to try experiments upon the legal Constitution to find a way of trying it. I think the adjournment legal, though I wave no objections to its legality, nor am interested in this ridiculous case in considering them.

"But in waving that objection for the present, I may add to the pressures I am enumerating, a judicial decision that never existed before in this island; since upon no trial for life, the evidence ever extended beyond the ordinary compass of trial without adjournment. When, in the teeth of all this, the defendant, Hardy, was not only acquitted, and his life saved, but honourably and triumphantly acquitted, with the universal approbation of an enlightened people. It raises up a whirlwind of emotion in my mind, that none but him who rides upon the whirlwind could give utterance to express. To his providence, ever watchful over this country, be all the honour and praise.

"Gentlemen, this view of the subject may be set down to the prejudices of a religious education, or to the warmth of a mind naturally very warm, it is enough for me that they are views which I never can change, and which I know and feel to be just.

"But there is another view in which every inhabitant of this island must look at what has passed with one accord. They must feel the strength which the Constitution has acquired by the refuge it has in flying from the corrupt part of it, to that which remains in soundness and vigour.

"It cannot but beget an affection for the law, which is the source of all authority to government, and of all protection to the governed. It cannot but invite men to be contented and happy in the form of their government, while it strengthens them in their efforts to preserve its substance from ruin; and unless they who administer the government are blind to every interest, and dead to every sense of honour, they will embrace the opportunity of bringing back the people to their legitimate homes, by giving them the solid satisfaction which flows from the pure administration of our own government, which will secure the King's Throne, because it establishes the People's Rights. I have better opportunities of knowing than any man can have the effects of the late verdict, and I know

know that if the conjuncture is rightly managed, it will produce universal satisfaction.

"I know that the late Jury are recorded throughout the land, as the deliverers of the country, as the guardians of authority, by giving an example of its justice, and I shall think it a greater reward than any office which power can bestow, to have been the humble instrument in assisting them to redeem the nation from a reproach, which would have blasted its honour and destroyed the security.

"These are strong words, and not very pleasant to some who must hear them, but they bring no unpleasantness to any present.

"The cause has been conducted on the part of the Crown with justice and candour. I have no complaint to make of the law, thank God I have not. An independent bar is another fold in the shield of the people's freedom.

Having made these preliminary observations, Mr. Erskine then came directly to the cause itself. He proceeded in defining the crime as it stood in the indictment, the material parts of which he read, and laid it down as a principle, that there must be evidence of an intent to depose the King in the mind of the party accused, before any act done, and then there must be an overt act done, plainly demonstrating the intent.

He then defined the whole of the charge, and the law that applied to it, and maintained that there was nothing like a case made out against the prisoner.—There was nothing that had not been culled out of all the newspapers in the kingdom, and of course what every body knew, and the Attorney General did not affect to charge any body with any offence whatever at that time. He then proceeded to take notice of what the Solicitor General had laid down as the law in this case, and refuted it, and he was persuaded that learned gentleman would, upon reflection, abandon it, for if it was the law, he had rather die now, while he was opposing it, than live to the age of Mathusalem under such law. He then defined what was to be understood by compassing and imagining the death of the King, as also all the other acts declared by law to be treason, and maintained that no one act charged by the evidence on the prisoner, amounted to any thing like it. If what other people had said in the absence of Mr. Tooke, and many of the acts charged against him were of that nature, were to fix him with high treason, any one of the members of any one of these societies might also be convicted of high treason. Nay, Mr. Erskine said, he himself might be convicted as having committed an act of treason against the Prince of Wales, although he had once the honour of being

his Attorney General, and who, although he had ceased to serve, he had not ceased to love; he might be convicted, he said, according to the rules contended for on the part of the Crown in this case, because he might have been in company of some persons who had acted as the members of those societies had acted; or other persons might have sent him letters, which might have been found in his house, as papers had been found in the house of Mr. Tooke, and it would not do even for his Royal Highness himself to come forward to declare any thing in his favour; but such monstrous principles were not to be maintained at this enlightened day.

He then proceeded to state at large the opinions of Lord Coke, Judges Hale and Forster, the great law authorities on the law of treason, and explained them all as he went on, and argued that there was not a sentence in either of their works, or in the statute of the 25th of Edward the Third, that gave the least colour or pretence for charging the defendant with the crime of high treason.

He next went on to consider the motives which the different members of these societies had in view, for although Mr. Tooke differed from most of them, he not being a friend to Universal Suffrage, yet he insisted on his counsel, not by his medium, to say any thing in his defence that might prejudice the cause of the other persons to be tried on this accusation; he must therefore take up the views of these societies; they formed the whole of their plan from the published and well known sentiments of the Duke of Richmond, it was in his Grace's sentiments all this plan originated; and the Jury would find, by evidence of the first men in the kingdom, in point of abilities and virtue, that a convention was held in Guildhall, in the city of London, and in Westminster, where delegates met and received the instructions of their constituents, and they carried the resolutions to the House of Commons, as these persons intended to do; and in one of them in particular, Mr. Fox, although he differed from the majority of the meeting, with regard to universal suffrage, yet Mr. Fox was under the necessity of complying with the desires of the company, upon the necessity of a Parliamentary Reform, and that good man might fairly be supposed to wish it; his arguments were numerous; he alledged that out of 513 members, 306, a majority, were sent to the House of Commons by 162 individuals, and on these points, all men had a right to deliberate and to collect the opinion of the public, in order that the evil might some time or other be remedied. By prosecutions for opinions it could never be removed, nor was that the way to silence discontent; let the people know

that

that they are ſafe under the law, and let them underſtand to what law they are to look up for protection, and that they ſhall not be enſnared into crimes, as from theſe proſecutions it ſhould ſeem that was about to be the caſe; let but this ſyſtem be avoided and nothing upon earth would ſhake the allegiance of the people, for with them allegiance and protection went hand in hand. He had ſaid that all theſe proceedings of theſe ſocieties had gone on the Duke of Richmond's plan, it would therefore be neceſſary to read ſome parts of that plan to the Jury; which, having done, he obſerved, that had this been read by Mr. Shelton as part of the ſpeech of Citizen Yorke, or of any of the reſolutions of one of the ſocieties, then it muſt have been called Treaſon by the lawyers for the Crown; the queſtion then was, whether theſe men publiſhed with a good intention what the Duke of Richmond planned with a good intention, or whether it was to be taken for granted, that they meant ill when they profeſſed well, and that, where there was not the ſmalleſt evidence of evil intention. Againſt this doctrine Mr. Erſkine quoted the ſentiments of the Chief Juſtice himſelf in his charge to the Grand Jury. He obſerved alſo, it was curious that the counſel for the Crown ſhould fix on Mr. Tooke's guilt for the proceedings of Chalk Farm, as he was not there, nor even approved of their proceedings there, at the ſame time they knew that Mr. Lovat, the chairman of the meeting itſelf, was a perſon againſt whom the grand inqueſt had refuſed to return the bill. He thought it hard alſo that crimes ſhould be imputed to Mr. Tooke, for which Hardy had been tried and acquitted; if Mr. Tooke was guilty, Hardy muſt be guilty on all the proceedings of theſe ſocieties; nay, he might be a great deal more ſo, and yet the Jury, after a long and painful inveſtigation of the caſe, had acquitted Hardy. God bleſs them! for long, long would their names be dear to every honeſt man in the kingdom for it. If there was not evidence enough to convict Hardy, there was ſtill leſs to convict Mr. Tooke, for it appeared on evidence for the Crown itſelf, that there was nothing in the charge againſt him; they had made out no caſe againſt him on which the Jury ſhould take away the life of a flea; it was ridiculous to call it a charge at all, there was nothing to be found in the Arabian Nights Entertainments, that had leſs to do with a criminal proſecution for High Treaſon, than the evidence had to do in explaining the guilt of Mr. Tooke, as charged in this indictment. Mr. Tooke, who was charged with the guilt of the convention at Edinburgh, did not even agree it ſhould be held at all, and when Mr. John Williams went to his houſe at Wimbledon, deſiring him to attend the ſociety, to appoint

the delegates, he refused to attend, not that he thought the appointment illegal, but because he thought it useless, and for this he was called a spy and an aristocrat by the society, and by the Crown he was charged as being a republican who deserved to be hanged. He next proceeded to take notice of the proceedings of the convention at Edinburgh, and maintained that from beginning to end, there was nothing like any probability of their entertaining any hostile attempts against the great and powerful government of this country. That a hundred and thirty unarmed individuals, with something less than ten pounds in the fund, should be able to withstand the great standing army of the kingdom, was a thing too ridiculous to be thought of. Some of the members of that convention had been tried in Scotland, and of the legality of the proceedings there, some of those whom he thought the greatest men in this country, were of opinion they were illegal, and he believed the day would arrive when Parliament would declare the judgments in these cases to be revised. However, these accusations in Scotland went no further than to charge these men with a misdemeanour; and yet now, for the very same thing, the Jury were called upon to shed the blood of the honourable gentleman at the bar; if one man was guilty of Treason upon this, they were all guilty; all the members of all the societies were so; how many tenants will the Minister have in his hands upon this case? But the truth was, thank God, that none of them were guilty, and so it would soon appear; for, it would be proved that Mr. Richter, now in Newgate upon this charge, had declared before he was taken up, and at the house of Mr. Thelwall, whom he was ready also to defend without fear of success, to as honourable a man as any living, Mr. George Rous, that they meant nothing more by their intended convention than to obtain a Parliamentary Reform, and asked his opinion on it, and if it should appear adviseable, they would not call the convention at all, and they never did actually agree to call that convention; and yet this was the great gunpowder magazine of all this Treason which had alarmed us so much, on the strength of which the Palladium of British Liberty was suspended — he meant the Habeas Corpus Act—and it was for this that men were to be hanged for High Treason.

He proceeded then to take notice of the charge of approbation of the works of Mr. Paine, as applied to these Societies, and particularly to Mr. Tooke. The truth is that Mr. Tooke had over and over again declared his approbation of several parts of that book, and as highly disapproved of all that part which abused Monarchy. The book itself would not have appeared in

England

England, but for the appearance of Mr. Burke's book on the French Revolution, to which it was an answer; and this same Mr. Burke, who now seemed to insist that every man ought to be hanged who did not detest every thing written by Mr. Paine, had himself, and that after this country had declared war against America, agreed with the sentiments written by Mr. Paine, in a work called Common Sense, from which the greater parts of the Rights of Man are taken. But it seemed that Mr. Tooke had entered into a subscription to support Mr. Paine, when he was under prosecution for publishing this book. The truth was not all known to the Jury upon that business. In point of fact, Mr. Paine at this time was not a rich man; and after it was understood that he was to be prosecuted, there was a combination made against him that he should not be defended. I at that time, said Mr. Erskine, was Attorney General to the Prince of Wales; I was told if I defended Mr. Paine, I should lose my place; I did defend him and I lost my place. He argued it was from an idea of this combination, so odious in England, that Mr. Tooke supported and countenanced this subscription.—Mr. Erskine having enforced these topics with wonderful energy, and after taking a general view of the impolicy of such prosecutions as the present, at any time, and more particularly at this time, and having read a beautiful quotation from Hume's History of England, on the manner of raising and supporting false plots, he came to the general character of his Client, Mr. Tooke, who was a man of great learning and genius, and certainly not a friend to a plan of universal suffrage, but a firm friend to the true principles of the Constitution of England, to prove which, Mr. Erskine read Mr. Tooke's Speech at the Crown and Anchor Tavern, on the first meeting in London to celebrate the French Revolution, in which he proposed to the company to avoid all misunderstanding, to enter into a resolution expressive of an attachment to the Constitution of this country, and that we had not the cause for a Revolution which France had, &c. He then desired the Jury to hear Mr. Tooke's letter to Lord Ashburton, (Mr. Dunning) on the subject of Parliamentary Reform, a subject on which that celebrated character was then engaged.

[Here Mr. Gibbs read the letter.]

This letter to Lord Ashburton, (late Mr. Dunning) is known to every political reader, in which Mr. Tooke stated clearly his objections to all wild and unqualified schemes of Reform, and suggests what in his idea would be sufficient for all good purposes. Would it be believed that he had conspired to overthrow the Government of the country?—The book which had been just read would shew what were the Gentleman's ideas on the subject of Parliamentary Reform. How moderate and how

bounded

bounded his ideas were. Were they only a pretext for other and more violent objects? On the contrary, he would shew by the testimony of a number of the most honourable men then present in the Court, that from the year 1782 up to 1794, he had proceeded uniformly in the prosecution of the same object. It will be proved that Mr. Francis, a Member of Parliament, who had most honourably and usefully turned his thoughts to the same measure of Reform, had shewn Mr. Tooke his plan so late as the beginning of the year 1794, and that Mr. Tooke had said, a fourth or a fifth part of what he suggested would satisfy him. Mr. Sharpe, who had been called as a witness for the Crown, had shewn the moderation of the Prisoner; and witness after witness should be brought to prove, that if ever there was a man anxious and solicitous to avoid all disorder and confusion, it was the Prisoner; and yet, Gentlemen of the Jury, you are called upon to consider him as a Traitor—as anxious to depose the King, and to compass his death, and, if you agree to their premises, to shed his blood! I trust him with perfect confidence in your hands. I must conclude by saying, that Mr. Tooke has the utmost title to my praise, for the manly, spirited, and disinterested rule of conduct which he has prescribed for himself, and which, at his instance, we have pursued. I was prepared to defend him in another way; I was prepared to save him from all the hazards of this trial, by shewing, that, however erroneous, or even criminal others might be, that this Gentleman was most perfectly clear from the imputations in the Indictment.—I was prepared to bring his bark clear through the tempest, and to steer him happily into port: but, no! the generosity of his nature would not leave others to be tost on the waves, when he was riding in safety;—he insisted upon throwing out a rope, to save the more indiscreet adventurers with him in the same voyage. I must applaud the sentiment of this heroism, and heartily second his virtuous intention, in shewing the innocence of his companions. Exhausted with fatigue, I must conclude this cause as I begun the last, with praying that God may enlighten your hearts, to give a true and faithful judgment in the cause. My heart is with the cause; and, I am sure, so is the heart of every man who loves the Constitution of his Country. May your verdict make that Constitution more dear to every one of us.

It was then half past nine o'clock. Adjourned to nine o'clock next morning.

FOURTH

FOURTH DAY.

THURSDAY, NOVEMBER 20, 1794.

The Court met at ten, and proceeded to buſineſs.

Major *Cartwright* was the firſt witneſs called on behalf of Mr. Tooke, and examined by Mr. Erſkine. He ſaid that he was one of the firſt members of the Conſtitutional Society; that their general object was a radical and fundamental reform; their principles of reform were founded on the plan of the Duke of Richmond. He could ſpeak more particularly to that, becauſe he had the honour of acting with the Duke upon thoſe principles, and had continued aſſociated to carry that plan into execution ever ſince. The ſociety wiſhed an eſſential reform in the Houſe of Commons, and would have been very glad to have obtained any reform, though it fell ſhort of that which they deſired.

He would have continued a member, though he might have had any reaſon to ſuppoſe that it was the intention of any man in the ſociety to overturn the conſtitution, becauſe he ſhould have thought it his duty to ſtay in order to counteract ſuch deſign, and to procure the expulſion of ſuch member. He, however, had never ſeen any ſuch diſpoſition. He never heard even the moſt trivial mention of ſuch a deſign. He became acquainted with Mr. Tooke about 16 years ſince, and had been very intimate with him from that time. Mr. Tooke always appeared to him to be a ſteady and firm friend to the cauſe of reform, both in public and private; but his ideas of reform fell ſhort of the Duke's; ſeveral diſputes had ariſen, he ſaid, between Mr. Tooke and himſelf in converſation upon the ſubject of reform; and that he always appeared to him to be the moſt invariable in his principles of any perſon he ever knew; he conſidered him as having made up his mind from ſtudy and deep reflection, and that his experience of men had led him to his concluſions, and that he had too much good ſenſe to make it neceſſary for him haſtily to alter opinions which he had deliberately formed. He had never heard Mr. Tooke make uſe of any expreſſions in the ſlighteſt degree diſreſpectful to the regal authority in this country, the conſtant tenor of his converſation was very much the reverſe. He always appeared to be a warm admirer of the regal and ariſtocratical branches of the conſtitution; but conſidered a reform in the other branch as eſſentially neceſſary.

He

He believed he had not seen Mr. Tooke since the spring of the year 1792; about that time he had several conversations with him, and saw no variation whatever in his sentiments. One dispute he had with Mr. Tooke was impressed strongly in his mind by an illustration which that gentleman used on the subject; he said, that when several persons travelled in a stage coach together, one might choose to alight at one stage, and another at a second, while others might choose to go further, so he, while travelling for the purpose of reform, would choose to stop at Hounslow, others might choose to go as far as Windsor, but he would stop at Hounslow by G—.

Major *Cartwright* said, he remembered a letter from the Constitutional Society to the Friends of the People, dated April 27, 1792; Mr. Tooke, he was sure, did not write it. He believed the printed copy to be a true one; he himself was chairman, and had subscribed it. That letter was written as a serious and solemn warning to the Friends of the People, not to put too great confidence in the professions of the members of opposition, as to parliamentary reform, as the nation had frequently found itself in an error, when it had placed confidence in associated members of parliament, for the recovery of the rights and liberties of the people. They did not mean this as a reflection on any individual, but as the result of the observations which the society had made on the subject.

Nothing, he said, had been started in the society previous to this letter, that went further than a radical reform in the House of Commons. He himself was then a member of the Friends of the People, and still continued to be so; and the Constitutional Society certainly did not mean to signify any thing different from what they expressed by the letter; the Friends of the People well knew that he was a member of the Constitutional Society, which latter society never gave any cause to suspect that they meant to subvert the constitution: on the contrary, their object was to restore it to its pristine purity, and to establish its true principles. He had never heard any thing of force, arms, or violence, in the society.

Mr. Erskine having finished, Major Cartwright was next examined by Mr. Tooke.

On this examination he deposed that he had had the honour of being called the father of the Society for Constitutional Information. He recollected Mr. Tooke disputing with him on what he considered as an axiom on the subject of reform, viz. the equal share which every man ought to have in the government. This axiom the Major believed he had taken from Mr. Locke; he well remembered that

Mr.

Mr. Tooke ſaid he thought that Locke did not bear him out in the concluſions he deduced from it, and farther, that he diſagreed with Mr. Locke's poſition, and that he thought both the Major and Mr. Locke very much miſtaken. The Major declined the diſpute, becauſe he did not feel himſelf ſufficiently prepared to cope with a man of ſuch eminent talents and learning.

He had converſed with Mr. Tooke on the ſubject of Paine's Works, who approved of only parts of them, but highly diſapproved of others. He had done the ſame alſo with reſpect to Mr. Locke, of whom alſo Mr. Tooke diſapproved in parts. He never heard Mr. Tooke praiſe a pure Democracy, but had frequently known him diſpute very ſtrongly with the ſupporters of ſuch a ſyſtem.

Mr. *Tooke* aſked, whether if Mr. Muir, whoſe trial and ſhameful puniſhment the witneſs had read, had done nothing elſe that was amiſs, except that for which he had been ſentenced to 14 years tranſportation, whether in his judgment he would have had a right to have been admitted into the ſociety?

This was conſidered by the Court as an improper queſtion.

Mr. *Erſkine* ſtated, that he wiſhed to read a letter which had been read in the laſt trial, but which would have much more force in the preſent. It was the letter which had been publiſhed by the Duke of Richmond, on the ſubject of parliamentary reform. The letter was accordingly read.

Mr. *Erſkine* was then proceeding to read as evidence a letter written by John Horne Tooke, to Lord Aſhburton, in 1782, ſoon after Mr. Pitt's motion for a reform in the Houſe of Commons, printed for J. Debrett, Piccadilly. This evidence was objected to by the Attorney General, when a long and ingenious argument took place, as to the nature of the evidence to be admitted in a trial of this ſort, in which Mr. Erſkine and Mr. Gibbs argued ably for the priſoner, and the Attorney General for the proſecution.

The *Chief Juſtice* decided that the letter ſhould be received as exculpatory, as it was evidence of the ſame nature with that which had been brought by the counſel for the Crown, to prove the guilt of the priſoners. The letter was accordingly read.

Major *Cartwright* was again called to prove the original declaration of the Society for Conſtitutional Information, ſigned by Mr. Pitt, Mr. Fox, Mr. Sheridan, &c.

The *Chief Juſtice.*—" Mr. Tooke, is your ſignature to this declaration?"

Mr. *Tooke.*—" God forbid, my Lord, that I ſhould ever have ſigned any thing ſo criminal. It goes much beyond any length I could ever approve, both in point of ſentiment and expreſſion."

The *Chief Juſtice.*—" It cannot be admitted as evidence. What others have done cannot affect your guilt or innocence."

Major Cartwright ſtated, in croſs-examination, that he believed that there were in the ſociety ſome bad men, but that he thought himſelf juſtified in co-operating with them, ſo far as their endeavours went to obtain that great end, which he had himſelf in view, a parliamentary reform.

The *Chief Juſtice.*—Mr. Cartwright, that may be a very ſincere declaration, but it is by no means a judicious one. He who aſſociates with bad men, may be led to lengths of which he is not aware in the firſt inſtance.

Mr. *Fox* was then called, who depoſed, that he remembered to have ſeen Mr. Tooke at a meeting at the Thatched Houſe Tavern, he believed, in the year 1785, very ſoon after Mr. Pitt had brought forward his motion for a reform in parliament. What he was now able to ſtate of the particulars of theſe tranſactions, was entirely from recollection, ſo that he could not bring them forward by any means as abſolutely certain. According to the beſt of his recollection, a meeting was at that time called in very looſe terms; the advertiſement was addreſſed to all the Friends of Reform, and, he believed, by Mr. Wyvill. Upon being aſked, whether any gentlemen were appointed to attend that meeting from particular diſtricts, he ſaid that he only recollected the general purpoſe of the meeting. The object of the reſolutions that paſſed upon the occaſion, was to give an explicit approbation to the ſpecific plan of reform that had been brought forward by Mr. Pitt. Upon being aſked whether Mr. Horne Tooke ſupported a motion propoſed in that meeting to give thanks to Mr. Pitt, for his conduct with reſpect to the queſtion of a parliamentary reform, he ſaid, that his recollection at this diſtance of time, went rather to the ſubſtance of what had paſſed at the meeting, than to the mode in which the proceedings were conducted. Mr. Horne Tooke ſupported the motion approving of the ſpecific plan of reform brought forward by Mr. Pitt, which ſome other gentlemen who were preſent, as well as himſelf, did not think fit to do.

Croſs-examined by the Attorney General.

Q. What was the ſpecific plan of reform brought forward by Mr. Pitt?

A. The words of the motion I do not recollect, ſo that I am only prepared to ſtate its ſubſtance: ſo far as I remember, it was a general propoſition, that, if any boroughs, I cannot be exact as to the particular deſcription, were diſpoſed to ſell their right to ſend members to parliament, theſe ſhould be purchaſed by the public; and that a right of election ſhould be given, either to the freeholders of counties at large, or of diſtricts.

Mr. *Francis* was next examined, who depoſed that he was a member of the ſociety of the Friends of the People, that he intended to draw up a plan of reform to be ſubmitted to that ſociety, in conſequence of which he had occaſion to ſee Mr. Horne Tooke, at different times, in the courſe of the Summer, 1793. Though he had not been previouſly acquainted with him, yet knowing that he was a friend to the cauſe of reform, and at the ſame time one of the moſt learned men of the age, particularly the beſt acquainted with all conſtitutional queſtions, he conſidered him as the beſt perſon to whom he could apply on this occaſion. He laid before him the plan of a reform which he had drawn up, and ſubmitted to him whether in the courſe of his remarks he had miſtated any thing. It was not his intention, by applying to Mr. Horne Tooke, to diſcuſs with him the principles upon which he founded his plan of reform, but merely to examine whether he was correct in the references which he had made to authorities and ſtatements. For this purpoſe he called upon him three or four times, and availed himſelf of the information which he communicated to him on the ſubject of a reform during theſe viſits. Mr. Horne Tooke appeared to him to approve highly of his plan.

Q. Do you not recollect that he ſaid, that though he greatly approved of your plan, yet if it could not be obtained, that ſomething even ſhort of it would ſatisfy him?

A. I cannot be certain as to that expreſſion.

Q. Your plan extended no farther than to a Reform in the Commons Houſe of Parliament?

A. It was confined entirely to that object.

Q. Did any thing that paſſed between you and Mr. Tooke lead you to think that he diſagreed with you with reſpect to the conſtitution?

 A. Nothing

A. Nothing at any time fell from him, which could in the ſmalleſt degree induce me to form ſuch an opinion.

Q. Do you recollect whether Mr. Tooke ſaid any thing to you with reſpect to the convention then held at Edinburgh?

A. I recollect he told me that it had been propoſed to him to become a delegate to that convention, and that he had poſitively refuſed; and that he was on that account in great diſrepute with the Popular Societies.

Croſs-examined by the Attorney General.

Q. Did you know that at the time Mr. Margarot and Mr. Hardy waited upon you to requeſt that you would preſent their petition, that they were aſſociated members with the Society for Conſtitutional Information?

A. No. I only underſtood that they were members of the ſociety to which Mr. Hardy was ſecretary.

Q. Did you at that time know that Mr. Horne Tooke had any hand in forming the London Correſponding Society?

A. No.

Q. You were a member of the Society of the Friends of the People, and muſt have known that they had declined all correſpondence with the Society of the Friends of the People. Did you know that the letter ſigned by Lord John Ruſſel, declining that correſpondence, had paſſed in your Society by a caſting vote?

A. That was not the caſe; that letter paſſed by many votes. There was only one occaſion in the Society of the Friends of the People when the queſtion came to be decided by a caſting vote, and then the ſubject in diſcuſſion was of a very different nature.

Mr. *Tooke* aſked Mr. Francis, whether in the courſe of their converſations, they had not diſcuſſed the principles of reform?

A. In conſulting you it was not my intention to enter upon any diſcuſſion of that ſort, as I had already made up my mind with reſpect to the principle upon which I intended to found my plan of reform; ſuch a diſcuſſion may have, however, occurred in the courſe of our converſation.

Q. Do you not recollect how often you called upon me,—I think, at leaſt, about five or ſix times?

A. I cannot recollect what number of times, but I called upon you as often as I had occaſion to paſs your way in the courſe of the ſummer, 1793.

Mr.

His Grace the Duke of Richmond examined by Mr. Tooke.

He began with aſking if his Grace recollected a young man whom he had recommended to him. The Duke did not recollect him. Mr. Tooke mentioned that this young man had met with a diſappointment, that he had recommended him to his Grace in order to be appointed to ſome ſituation, and for this purpoſe called at the Ordnance Office, ſoon after his Grace was appointed to be Maſter General of the Office.—Still the Duke did not recollect the circumſtance.

Q. Does not your Grace recollect giving me a letter recommending him to Lord Mulgrave?—A. I have now ſome faint recollection of the buſineſs.

Mr. *Tooke.*—I know that it is proper to conduct an examination as generally as poſſible: but in this ſtate of recollecting, it will be neceſſary for me to come at once to the point, and to put my queſtions more plainly than I intended or could have wiſhed.

Q. Perhaps your Grace recollects that in a converſation which paſſed between you and me, you did not approve of Mr. Pitt's plan of purchaſing the right of election to thoſe boroughs which the proprietors might be diſpoſed to ſell?

A. I cannot be certain.

Q. It may then be proper for me to bring ſome circumſtances that paſſed to your recollection.—Your Grace objected to the expence which would be incurred to the public by carrying ſuch a plan into execution, when I remarked that this objection might be obviated, and a great expence ſaved, by giving peerages to ſuch proprietors of boroughs in lieu of the right of election, and inſtead of a hereditary ſeat in one houſe, compromiſing with them by giving to them a hereditary ſeat in another. My reaſon for aſking this queſtion is, to ſhew that I was deſirous to point out the moſt peaceable way which occurred to me of effecting this reform of Parliament?—A. I cannot take upon me to recollect any thing that paſſed in converſation at ſo diſtant a period.

Q. Does your Grace recollect a Convention of Delegates from Weſtminſter, Middleſex, Surry, &c. who met at the London Tavern, under the title of the Quintuple Alliance?

A. I really have been preſent at many public meetings, and cannot recollect whether that to which you allude might be held at the Thatched Houſe or the London Tavern.

Q. Does your Grace recollect having ſaid at one of theſe meetings "That they ought not to reproach you or the other Gentlemen embarked in the cauſe for the want of ſucceſs in attaining the object of a Parliamentary Reform, and that in order to be ſucceſsful, it was neceſſary that the People ſhould

act

act for themſelves?"—A. I do not recollect that I expreſſed any ſuch ſentiments.

Q. Does your Grace recollect that I at one of thoſe meetings ſtood for the ſpace of an hour amidſt hooting and hiſſing, and at laſt ſucceeded in being heard?—A. I have ſeen you engaged in a variety of altercations, but cannot recollect the particular occaſion to which you allude.

Q. Your Grace was a member of the Society for Conſtitutional Information?—A. Yes.

Q. Did you ever hear me upon any occaſion ſay any thing againſt the Conſtitution?—A. Never.

Q. Do you recollect that the Convention in which we were engaged for a Reform of Parliament, met with no preciſe object, and afterwards parted without any thing being done, leaving the preciſe plan of Reform, as well as the manner in which it was to be effected, to the honour and diſcretion of Mr. Pitt?—A. I recollect that I recommended to the perſons preſent at that meeting to withdraw their wiſhes for the immediate accompliſhment of a more extenſive plan of Reform, and to truſt to the effect of that more moderate plan which was to be brought forward by Mr. Pitt.

Mr. *Tooke.*—It is to be recollected that Mr. Pitt made two motions—one in 1782, for a Committee of Enquiry, the other in 1785, ſtating the ſpecific plan which he wiſhed to be adopted.

Attorney General.—Your Grace ſtated that the meeting left the ſpecific Plan of Reform to the diſcretion of Mr. Pitt, to be exerciſed in bringing forward the queſtion to Parliament, as a member of the Houſe of Commons?—A. Undoubtedly.

Mr. Pitt was next called.

Mr. *Tooke* wiſhed to have brought in evidence a letter written by Mr. Pitt, on the ſubject of a Reform of Parliament.

The *Chief Juſtice* objected to this letter being brought in evidence, except the Priſoner could connect the Plan propoſed by Mr. Pitt with that which had been adopted by himſelf.

Mr. *Tooke* and Mr. *Erſkine* contended that it ought to be received as evidence, upon the ſame principle as the letter of the Duke of Richmond to Colonel Sharman. Mr. Tooke ſaid that the letter was not addreſſed to himſelf; and Mr. Erſkine, that he had not before ſeen it, and was entirely unacquainted with its contents. After ſome altercation on this point, the letter was ſhewn to Mr. Pitt, who ſaid, that from the appearance of the letter, he could only judge to what deſcription of Gentlemen it was addreſſed; it appeared to have been written to ſome Gentlemen compoſing a Weſtminſter Committee, but at this diſtance of time he had no recollection

of

of the contents. He then ſtated, that he recollected a meeting of a number of perſons at the Thatched Houſe Tavern, about the middle of May, 1782. He could not recollect with certainty, but rather thought that the priſoner was preſent. At that meeting it was recommended to endeavour to obtain the ſenſe of the People on the queſtion of a Parliamentary Reform.

Q. Was it recommended to obtain that ſenſe by pariſhes and diſtricts?—A. I have no particular recollection as to that point. I remember that it was agreed by the meeting to recommend to the People, during the ſummer, to petition Parliament.

Mr. *Tooke.*—I intended to have aſked the Right Hon. Gentleman a great many more queſtions, but, in conſequence of the turn which the examination has taken, I ſhall proceed no further.

Croſs-examined by the Attorney General.

Attorney General.—Mr. Pitt, did you hear in that meeting any talk of a Convention? Did it conſiſt of Delegates from different bodies of men, and connected with affiliated Societies?

A. There were two different meetings. No idea of a Convention was ever ſtated in my preſence.

Q. Was it or was it not a Convention of Delegates from different bodies?—A. I do not at this diſtance remember how it was compoſed. I did not conceive that the members were authorized to act for any particular body, but that each was acting for himſelf, and in his own individual capacity.

Mr. *Erſkine.*—Perhaps you may recollect that, at the period alluded to, a Petition to the Houſe of Commons was rejected, becauſe it was conſidered as coming from perſons in a delegated capacity?—A. No petition was ever ſent from that meeting; I always underſtood that the members, who compoſed that meeting, were acting for themſelves. I don't know, however, but that ſome of them might be deputed; I muſt again repeat, that at this diſtance of time I cannot exactly aſcertain how the meeting was compoſed.

Mr. Sheridan was then called.

He depoſed that he knew the priſoner; that he had ſeen him at ſeveral meetings for the object of a Parliamentary Reform. He had ſeen him at different Aſſociations, particularly in the year 1780, at an Aſſociation, which, if he was not miſtaken, was compoſed of Delegates from different parts of the

the kingdom. He was himſelf, along with five or ſix others, Delegates for Weſtminſter. They were appointed to act in concert with other Delegates, to correſpond with the Societies aſſociated to promote the object of Parliamentary Reform, and by all legal and conſtitutional means to endeavour to intereſt the public mind to concur for the ſame purpoſe. They thought that the public opinion would ſo far influence Parliament, that they would ultimately gain their object, without which they had no hopes from the Houſe of Commons. Such as were friends to the object of Reform, confided the means by which it was to be obtained, to the diſcretion of their Delegates.

Q. Was not this a thing as notorious as that I am now ſpeaking to you?—A. It certainly was, for none of the Delegates ſigned a paper in which they did not ſtate that they were acting for others; and every Delegate muſt have known the capacity in which he ſtood, becauſe he muſt have himſelf been appointed to that ſituation. Horne Tooke always aſſented to the general plan of Reform, and appeared not as a critic who wiſhed merely to animadvert on the proceedings, but as a perſon who was really deſirous to aſſiſt and co-operate in carrying the object into effect. The number of Delegates was very conſiderable; there were ſeveral from the moſt populous counties, ſuch as Yorkſhire, Devonſhire, &c. It was not their object merely to draw up a petition; they conſidered themſelves as delegated for a general purpoſe, and were of opinion, that unleſs a petition came from the whole body of the people, it was perfectly frivolous and uſeleſs. They were met to collect the public opinion, certainly not by any thing like violence or force, but to produce that awe which the Houſe of Commons muſt ever feel for the public opinion, when expreſſed by the people in a great body.

Mr. Sheridan examined by Mr. Tooke.

Said he recollected having been preſent at a dinner at the Crown and Anchor, he believed in the year 1790, on the occaſion either of the taking of the Baſtile, or the acceptance of the Conſtitution by the King of France. On that occaſion Mr. Sheridan made a motion to this effect: "That the meeting rejoices in the eſtabliſhment and confirmation of Liberty in France, and contemplates with peculiar ſatisfaction, the unanimity and good will ſubſiſting between the two countries at a time when they are ſo neceſſary, not only for the intereſts of both, but for the general welfare of mankind." This motion he made in concert with ſome reſpectable gentlemen of the Whig Club, who had agreed to attend the dinner, and who informed

informed the Chairman, Lord Stanhope, of their intention, in order to guard against the effect of any intemperate resolution which they apprehended might be brought forward. Mr. Tooke expressed his approbation of the motion, but conceived it to convey too unqualified a panegyric on the French Revolution, and to be calculated to produce in the subjects of this country, either a disposition to revolution, or at least from the terms in which it was expressed, to be liable to be misinterpreted by the enemies of national freedom; Mr. Tooke therefore wished that the motion might be qualified by some declaration on the part of the meeting, of their attachment to the principles of the British Constitution; he adverted to the impropriety of some gentlemen present having French cockades in their hats. Speaking in a figurative manner, he compared the old French Government to a vessel foul and decayed, which no repair could save from destruction, and contrasting it with the British Constitution, "Thank God, said he, the main timbers of our constitution are sound!" having before observed that some Reform was necessary. He recollected the circumstance more particularly, because at the beginning of this speech, he had been much interrupted by the hissing and hooting of some persons, who were either more violent in their sentiments, and contemned his moderation, or who had mistaken his meaning, and so great was the interruption that the Chairman was obliged to interfere.

Mr. *Tooke*.—Does Mr. Sheridan recollect that at that meeting, I moved a resolution to the following purpose: "That the meeting feels equal satisfaction that the subjects of this country, in consequence of the virtuous exertions of their ancestors, have not to undertake so arduous a task as that which the French have lately had occasion to encounter, and have only to maintain and preserve the Constitution handed down to them from former times?"—A. Such was the substance of the motion.—I objected to it because I considered it as the business of the meeting merely to express our satisfaction at the French Revolution, and not at all to mingle with it any questions relative to the British Constitution, as there might be present some who were, and some who were not Friends to a Reform. Mr. Tooke, by argument and perseverance, overcame the opposition which he had at the first to encounter, and his Resolution was at last adopted as unanimously as my proposition had formerly been.

The *Solicitor General* asked at what time of the year 1790, the meeting had taken place?—A. I believe on the 14th July.

Q. Was you present at a similar meeting in the year 1791?

A. I was not present.

He was then croſs-examined as to the different meetings in the year 1780.

Q. Did theſe meetings propoſe to act only for thoſe who deputed them or for others?—A. No propoſition ſo abſurd ever entered into their ideas as to pretend to act for thoſe who had not deputed them.

Q. Did any attend the meetings who were not Delegates?

A. I recollect the Duke of Portland once attending to give information of ſomething that had been ſaid by Lord Hillſborough on the illegality of ſuch meetings, and that he was received on the ground of giving ſuch information.

Q. Were you at that time in Parliament?—A. I was not, but the circumſtance of my having ſince been a Member of Parliament has not altered my opinion as to the neceſſity of reforming it.

He was then examined by the Chief Juſtice, as to the different places at which theſe meetings had been convened; among others he enumerated that they in one inſtance aſſembled at Guildhall under the ſanction of the Lord Mayor, and that meetings had taken place at the houſe of the Duke of Richmond in Privy Gardens. He was not preſent at the meeting at the Thatched Houſe.

Mr. *Pitt*.—I before conceived that I was examined only as to the meeting at the Thatched-houſe. I now recollect to have been at ſome meetings at the houſe of the Duke of Richmond at Privy Garden, where there were preſent ſeveral perſons deputed from different counties.

At this period of the evidence, the Court adjourned for ſome refreſhment.

Earl Stanhope examined.

He ſaid, he remembered having been preſent and in the Chair, at a public meeting held at the Crown and Anchor Tavern on the 14th of July, 1790, one year after the Baſtile had been pulled down, aſſembled to celebrate the anniverſary of that glorious event. The perſons preſent were reſpectable. Mr. Sheridan was there. On Mr. Sheridan's health being given, he roſe to return thanks, and then propoſed a reſolution, the ſame in ſubſtance, and, his Lordſhip believed, in words, as the Court had heard ſtated. Mr. Tooke made ſome remarks upon it, which were not well received. He ſaid he had been in the habit of flattering women, but would not flatter men. He was hiſſed.—He went on, however, ſpoke leſs reſpectfully of the motion than his Lordſhip wiſhed, adviſed ſomething, in the way of amendment, and approving

of

of our own Conſtitution. He ſaid ſomething of its timbers being ſound, for which he was hiſſed and hooted. His Lordſhip thought this was becauſe ſome thought he was calling the rotten Boroughs ſound timbers; but his Lordſhip underſtood him to ſpeak of the Conſtitution. There was a great difficulty in obtaining him a hearing, which his Lordſhip as Chairman, could not have effected, but by telling the company to hear him firſt, and, if they diſapproved, hiſs him afterwards. In concluſion, to avoid mixing two ſubjects, Mr. Sheridan's motion was put and carried, and Mr. Tooke's amendment put in the form of a diſtinct reſolution, and carried. The ſubſtance of it was, that in this country we had no need of a revolution, but only the amendment of ſome defects in our Conſtitution, according to its own principles.

Being aſked if the company did not know that the Conſtitution of 1789 had been adopted in France?—He ſaid the Conſtitution of 1789, as it was commonly called, was adopted in 1789, and perfected in 1791, 1792. The diſapprobation of what Mr. Tooke ſaid, he thought came chiefly from people (he meant no diſparagement), who called themſelves Foxites, who thought ill of him for his conduct on a then late election. He was perſuaded that none of the company had any intention of ſubverting the Conſtitution. He was a member of the Houſe of Commons during the latter part of his father's life. He attended many meetings held on the ſubject of Parliamentary Reform. He was preſent at a meeting at the Duke of Richmond's houſe in Privy Garden, where he thought Mr. Tooke was alſo preſent. He was pretty certain that Mr. Tooke was at the meeting at the Thatched Houſe Tavern in 1782, after Mr. Pitt's firſt motion for a Reform in Parliament had been negatived. He did not recollect what part Mr. Tooke had in the proceedings, but the general purport was a recommendation to the people to meet during the ſummer, in order to give weight to their claims for Parliamentary Reform. At the meeting at the Thatched Houſe in 1785, Mr. Pitt, the Duke of Richmond, Mr. Wyvill, Mr. Tooke, &c. were preſent. The meeting was called at the inſtance of Mr. Wyvill, who was a warm friend to the plan propoſed in Parliament by Mr. Pitt, for applying a million of the public money to buy up the property of decayed Boroughs. Mr. Wyvill brought a detailed account of this plan, which he read, and recommended a reſolution approving of it. Mr. Fox oppoſed it, and Mr. Tooke ſupported it. This meeting was not a Convention of delegates acting for other perſons; but in 1790 and 1791, he had been in ſuch Conventions with Mr. Tooke. He was not in habits

of private acquaintance with Mr. Tooke, but believed him an advocate for Parliamentary Reform on the principles of the Conſtitution, from what he knew of his public conduct.

Attorney General.—Does your Lordſhip know any thing of Mr. Tooke's conduct ſubſequent to 1790?

A. I have not been aſked.

Mr. *Wyvill* ſaid, he recollected the meeting at the Thatched Houſe Tavern in 1785. It was called chiefly by his deſire, with a view to obtain a reſolution approving of the plan propoſed by Mr. Pitt to the Houſe of Commons. This, he hoped, would unite all the Friends of Reform in the kingdom, and give weight to another application to Parliament. There were differences of opinion among them, which he hoped ſuch a reſolution would reconcile. He expected a greater effect from the united, than from the diſunited voice of the People. Mr. Tooke was there. The propoſition moved was, in ſubſtance, that Mr. Pitt's plan, if carried into effect, would be a ſubſtantial improvement of the Conſtitution. Mr. Tooke ſpoke, and voted in favour of it. He thought Mr. Tooke was preſent at the meeting of the Thatched Houſe in 1782. The object of that meeting was to animate the People to hold meetings in their reſpective diſtricts, to ſupport a Reform of Parliament with more effect. A propoſition of this tenour was carried unanimouſly. He never ſaw Mr. Tooke but once at any private meeting.

Attorney General.—The object was to animate the People to petition Parliament?

A. It was.

Q. The Reſolutions were reduced to writing?

A. They were.

Q. All you ſpeak to relates to things that paſſed before the end of 1785?

A. Certainly.

Mr. *Macnamara* ſaid, he remembered being preſent at a Club called the Conſtitutional Club, which was formed about the time of Lord John Townſhend's election for Weſtminſter. Mr. Tooke propoſed certain Reſolutions, of which he took no memorandums, but conſidered as perfectly Conſtitutional and Loyal, and becoming a man firmly attached to the King and the Government, to make. This was in Nov. 1788. He did not know whether or not the Reſolutions were carried, becauſe he was not in the room, when they were put to the vote; but they were directly the reverſe of hoſtile to the King, or to the Houſe of Lords.

Mr. *Tooke.*—Were the Members of the Club diſtinguiſhed by any uniform?

A. A

A. A blue coat with an orange cape, and a button with the words *King and Conſtitution.*

Q. Do you recollect any of the members?

A. Mr. Tooke was one of the original founders.

Q. Was Mr. Roſe a member?

A. Yes.

Q. Mr. Steele?

A. Yes.

Q. Mr. Pitt?

A. Yes.

Q. Mr. Dundas?

A. I do not recollect Mr. Dundas.

Q. The preſent Speaker of the Houſe of Commons?

A. I am not poſitive.

Q. Lord Frederick Campbell?

A. Yes.

Q. Mr. Fielding?

A. I believe he was.

Q. Do you not recollect the Speaker of the Houſe of Commons, having been a ſpeaker upon that occaſion?

A. I had a part of the company in my care, among whom I was circulating the glaſs, and did not attend much to what was paſſing.

Q. What was the number preſent?

A. A very great number, I ſhould think about 1,200.

The witneſs went on to ſtate, that he became acquainted with Mr. Tooke in 1788, on the occaſion of the Weſtminſter Election, in conſequence of the zeal he ſhewed for the Candidate, to whom the witneſs gave his ſupport; that both then, and during the debates on the Regency, he had frequent opportunities of converſing with Mr. Tooke; and that he never met a public or private character, who he thought underſtood the Conſtitution better, or a man more attached to it, as eſtabliſhed in King, Lords and Commons.

Attorney General.—You ſpeak only of the events in 1788?

A. The debates on the Regency were in 1789.

Q. You have been principally abroad ſince that time?

A. I went abroad in October 1789.

Q. You can then ſay nothing as to the Priſoner's character ſince 1789?

A. Certainly not.

Q. You have been abroad a good deal?

A. Till about the middle of laſt June.

Q. Were you in France?

A. I was in Paris in October, 1789. My intention was to go to the South of France; I went as far as Tours, and returned to Paris on account of the ſtate of the country.

Q. Do

Q. Do you know any thing of addresses from persons in this country, presented to the French Convention in November, 1792, and what effect they produced?

A. I left Paris in August, 1792, and went to Switzerland.

Q. Your knowledge of the Prisoner then, goes no farther than 1789?

A. I had much conversation with him on political subjects, I never knew a man from whom I received more information, a man more loyal, or who would be more ready to shed his blood in defence of the Constitution as established in King, Lords, and Commons, although he always said that there ought to be a Reform in the House of Commons.

Mr. *Tooke.*—Having been a good deal abroad, do you know that before the Revolution in France, more thousands of poor died annually of putrid diseases, in consequence of unwholesome food, than since the Revolution, by war?

A. Only as matter of opinion.

Q. Do you know that before the Revolution, there used to be numbers of cruel executions?

A. The Government of France was bad; and therefore many shocking executions, perhaps of persons who deserved it; I never thought the French either then or now remarkable for good conduct.

Attorney General.—Were these barbarities you speak of subsequent to the Revolution?

A. Of my own knowledge, I can speak only of what was subsequent to October, 1789.

Mr. *Fielding* said, the reason of his attending the Club, was principally his being Counsel for Lord Hood on the business of the Westminster Election. He saw nothing in the proceedings that he would not have gone through with the fullest approbation of heart. Mr. Tooke was then often of parties which he attended as Counsel.

Mr. *Tooke.*—Do you recollect a mode of signifying our approbation of a measure which you taught us?

The *Chief Justice* objected to the question as improper.

Mr. *Tooke.*—Did we not, on your recommendation, all stand up, join hands, and say we would stand or fall by one another, as the Members of the Scots Convention are said to have done?

After some debate, the answer was allowed to be given—"After some speeches had been made, I attempted one too. I spoke of the abuses of the Right of Election, which I then thought, and still think, were great on that occasion; I exhorted to a prompt resistance of those abuses; the company all stood up, joined hands, and said they would stand or fall by one another in resisting them."

Q. Did

Q. Did you ſee any thing treaſonable in the Club?

A. Never.

Q. Were you preſent when a letter was received from the Revolution Society, and one from the Whig Club?

A. I was.

Q. Do you recollect what Mr. Beauſoy ſaid on that occaſion?

A. I do not exactly.

The *Chief Juſtice.*—The hiſtory of this club is foreign to the buſineſs before us.

Mr. *Tooke.*—I know it, my Lord, but I am obliged to aſk queſtions that are irrelevant in order to refreſh the memory of the Witneſs with reſpect to circumſtances that are not.

Q. Do you recollect any reſolutions propoſed by me?

A. I cannot charge my memory any farther than that you ſpoke.

Attorney General.—You know nothing of the Priſoner ſince 1789?

A. No.

Mr. *Tooke.*—The Attorney General ſeems to aſk this queſtion of every Witneſs, with a view of impreſſing the Jury with an idea that I have no evidence to my conduct ſubſequent to the period at which this charge of treaſon commences.

Attorney General.—It is a queſtion I have a right to aſk, as it might lead to other queſtions.

Lord *Frederick Campbell* was at the Meeting, November 5th, 1788, remembered ſome Reſolutions being moved, but not the purport of them; could not recollect that he then ſat by Lord Camden.

Mr. *Tooke.*—Were you not diſpleaſed at the Reſolutions being propoſed without having been firſt communicated to you?

A. I was.

Q. Do you remember that you ſpoke on the ſubject very ſharp, and that I anſwered very ſoftly?

A. I do not.

Q. Could you recollect the Reſolutions in ſubſtance, if you heard them now read?

A. Perhaps.

Mr. *Tooke* then read ſome of the Reſolutions, but his Lordſhip had no recollection of them.

Lord *Camden* being called:

Mr. *Tooke.*—You ſee, my Lord, I am driven from one bad recollection to another; I hope I have come to a good one at laſt.

Lord *Camden* recollected being preſent when the Reſolutions were propoſed, and Lord Frederick Campbell's finding fault that he was not previouſly conſulted, but not the ſub-

 ſtance

ſtance of them. He thought they contained nothing unworthy of a good Subject. On ſome of the Reſolutions being read to him, he thought he remembered them.

Mr. *Tooke.*—Conſider, my Lord, that the Club is not yet diſſolved; that you and I are ſtill members of it, and that according to the preſent ſyſtem, all the treaſons with which I am charged may be brought home to you.

Attorney General.—Have you had any connection with Mr. Tooke ſince 1788?

A. None.

Mr. *Tooke.*—The Club is not yet diſſolved?

A. I do not know.

Mr. *Beauſoy* remembered being at a meeting at Willis's, but did not know it was the Conſtitutional Club.

Mr. *Tooke.*—Did you not wear the uniform of the Club, the orange cape and the button on a blue coat?

A. I do not recollect I ever did.

Q. Not the button?

A. I do not recollect the button.

Q. (*To Lord Camden*) Were not the words Conſtitutional Club on the bottom?

Lord Camden.—They were.

Mr. *Beauſoy* did not recollect having worn either the buttons or the orange cape. He remembered dining in 1788, at a meeting, where Lord Hood was in the Chair, and addreſſing the meeting on the ſubject of commemorating the Centenary of the Revolution.

Mr. *Tooke.*—Is that all you recollect of the ſubſtance of your ſpeech?

A. It is.

Q. Your memory is very defective for a young man; mine is better at ſixty.

A. I recollect no more.

Q. Were not you once one of the leaders among the Diſſenters?

A. I never had the vanity to think myſelf a leader. I thought the Diſſenters entitled to the ſame Civil Rights as other ſubjects, and I moved in the Houſe of Commons for the repeal of the Teſt and Corporation Acts.

Q. You recollect at the Meeting propoſing to bring a Bill into Parliament for an annual commemoration of the Revolution, and moving certain reſolutions?

A. I recollect addreſſing the Meeting on the ſubject.

Q. Then, you recollect carrying ſome reſolutions from me to Lord Hood in the Chair?

A. I remem-

A. I remember communicating ſome reſolutions from you to Lord Hood, but not what they were.

[Mr. Tooke then read ſome of the reſolutions, which the Witneſs thought he recollected.]

The *Attorney General.*—Have you had any communication with Mr. Tooke ſince 1788?

A. My acquaintance with him commenced on the occaſion of Lord Hood's conteſt for Weſtminſter. Since then, I have ſeen him only once in the ſtreet, and once at a coffee-houſe.

Mr. *Tooke.*—Was there never ſince a time when you were ſorry that, after all the money you had ſpent, and all your faithful ſervices to Mr. Pitt, he would not return your bow?

This queſtion being objected to, Mr. Tooke ſaid, "Mr. Beaufoy ſpeaks as if thinking that I call him to ſpeak to my character and affecting to diſclaim my acquaintance. I called Mr. Beaufoy to ſpeak to facts which I did not think it poſſible he could have forgotten. At ſixty, I am not under the neceſſity of calling him to my character; but when an inſinuation is thrown out to my diſadvantage, I have a right to aſk a queſtion that may ſet all right."

After a ſhort altercation, the *Attorney General* called on the Court to protect the witneſs.

Mr. *Tooke.*—As the Attorney General thinks himſelf bound to protect my witneſſes, I will not be ſo inhuman as to diſtreſs them. I will not preſs the queſtion.

Mr. *Beaufoy.*—"Before I go from this place, I beg leave to ſay, that I have no recollection of having made any ſuch complaint at any time, or in any place."

Mr. *Tooke.*—"Then he has forgotten it."

The *Attorney General* complained of this remark after the witneſs had ſaid he did not ſay ſo.

Mr. *Tooke.*—"He ſays only that he does not recollect it. I am ſure that he cannot poſitively anſwer my queſtion in the negative; I will wager" . . . . . Mr. Tooke was ſtopt by the Court for uſing an improper expreſſion, which he readily acknowledged, and ſaid he had done with it.

Mr. Thomas Simmonds, examined by Mr. Erſkine,

Swore, that he is a Student at Law in the Inner Temple, and a member of the Society for Conſtitutional Information in London, and had been ſo for two or three years, and is a member of it ſtill. He was acquainted with the priſoner at the bar, and knew him in private as well as public life, having been ſeveral times in company with him. He attended ſometimes, and ſometimes he omitted attending the ſociety,

 with

with which he ſaid he was perfectly acquainted; that their object was a Parliamentary Reform, at leaſt ſo he underſtood it; and that reform was nothing more than a reform in the Houſe of Commons; that was not only conſidered by him to be the ſole object, but alſo by the whole ſociety. He did not know the number of the ſociety at its firſt inſtitution; but he believed it to be about fourteen or fifteen. From any thing that was tranſacted in the ſociety, he had no reaſon to believe that the original profeſſed object was departed from; he underſtood all their proceedings to be aimed ſolely to the object of a reform in the Houſe of Commons. He never heard any thing that led him to believe, or to ſuſpect, they ever departed, or intended to depart, from that object, if he had, he ſhould moſt certainly not have continued in the ſociety; it would have been contrary to his intereſt. He had ſeen the priſoner at the ſociety. He had heard the expreſſions he uſed upon the object of the ſociety, and they were in favour of the monarchy and the hereditary ariſtocracy of the kingdom, and this appeared to the witneſs to be the object of the ſociety. He was, as he had already ſaid, a member of the ſociety, at the time of the meeting of the Convention held at Edinburgh. The witneſs diſapproved of the Convention held at Edinburgh, but he did not know enough of its proceedings, or of the members, to form a ſtrict opinion on their conduct; and he objected to the chooſing of a convention at all, becauſe he thought that their meaning might be miſtaken by the public. There was nothing ſaid in the ſociety that might lead the convention to think that their object was in the ſlighteſt degree criminal, or that might tend to favour the idea of an attempt to ſubvert the government. He remembered a propoſition being made from the Correſponding Society, to the Society for Conſtitutional Information, for holding another convention. He was in Court laſt night and he heard the letter read from the London Correſponding Society, to the Society for Conſtitutional Information, deſiring them to appoint members to meet their body. When this propoſition was made and acceded to by the Conſtitutional Society, it was underſtood by all preſent who adopted it, to be a proceeding of general concurrence for applying to parliament for a Parliamentary Reform; that was entirely the object of the Conſtitutional Society, and he underſtood to be the object alſo of the London Correſponding Society. There was ſome debate upon the propoſition, but he did not recollect the tenor of it; he did not recollect that any thing was ſaid, but on the ſubject of Parliamentary Reform. If any thing elſe had been ſaid he muſt have known it. If they had thought of propoſing the object ſtated in the indictment, he muſt have known it,

for

for he muſt have collected the fact. He had no reaſon, now upon his oath, to believe they had any ſuch view, but was perfectly aſſured of the contrary. He was preſent when the report of the committee was made after this appointment; there was a reſolution formed on the 11th of April, for the approbation of the London Correſponding Society. The ſubſtance of the reſolution was, "That it appeared to the committee very deſirable that a General Convention of the Friends of Liberty ſhould be called for the purpoſe of conſulting on a proper method of obtaining a full and a fair repreſentation of the people." It was impoſſible but that he muſt have known if any thing but this was intended in their ſociety. Another reſolution was read to him to the following effect: "That it appeared to the committee very deſirable that a general meeting of the Friends of Liberty be held for the purpoſe of obtaining a Reform in Parliament." He ſaid he recollected there was a debate upon this ſubject in the ſociety, and the debate turned upon the word "Convention." It was ſaid that that word would probably miſlead the public mind, and that it might be ſuppoſed that the ſociety had an object different from what they really had, which was really nothing more than a Parliamentary Reform: he took part in this diſcuſſion, and he objected to the word Convention for the reaſons he had already given. He had not the ſlighteſt idea that any thing elſe was intended; after ſome diſcuſſion, therefore, the word "Convention," was omitted. Upon the expreſſions of all, and their demeanour, he was clearly convinced that nothing was intended but a Parliamentary Reform, and a full repreſentation of the people. Some were in favour of Univerſal Suffrage, but fifty times had he heard Mr. Tooke reprobate that idea. He never heard any enter into the ſubject with a view of endeavouring to touch the honour or the majeſty of the King, nor of the Houſe of Lords, but he always underſtood the whole aim to be a Reform in the Houſe of Commons. No man appeared to him to ſay any thing that was unconſtitutional; and he thought it impoſſible for any propoſal to employ force could be made without his being acquainted with it. He never heard of arms; it was never debated or propoſed, in the different votes of approbation of the liberty of France, to put down the liberty of this country. He had no reaſon to believe that the five perſons deputed by their ſociety to meet the ſix on the part of the London Correſponding Society, had any idea of changing the object for which they were deputed. The committee conſiſted of Mr. Joyce, Mr. Sharp, Mr. Bonney, Mr. Pearſon, and Mr. Wardel: he was well acquainted with Mr. Joyce, having frequently converſed with

 him;

him; he had always found him, like all he knew of the rest of the society, a friend to a Reform in the House of Commons. He knew Mr. Sharp too, and had frequently heard his sentiments, which were to the same effect. He had seen Mr. Bonney also several times, and he never was acquainted with a man of purer principles; he was remarkably so; he had the character in the society, of a very peaceable man and loyal subject. He knew Mr. Pearson also, and he had no reason to believe that he differed from the rest of the society. Mr. Wardel he had seen only two or three times, and therefore he did not know much of him. He believed that these gentlemen after their appointment, pursued their object of a Parliamentary Reform in the House of Commons. If a conspiracy had existed amongst those persons, he most undoubtedly should have known it; from their character he could not conceive such an idea for a moment.

Cross-examined by the Attorney General.

He happening to be ill a little while after the transactions of which he had given evidence happened, he was afterwards seldom present, and therefore afforded very little further information. He admitted, however, that the society thanked Mr. Barlow and Mr. Paine for their works.

Colonel Money, examined by Mr. Tooke,

Said he had been in the service of the French; that his commission was signed by the late King of France on the 18th of July, 1792; that he quitted that service when he heard that his country was likely to be involved in a war with France, which was on the 23d of December, 1792. He knew very well that his friends in this country approved of his entering at that time into that service.

Mr. *Tooke* asked him, whether after he returned, he waited on Mr. Dundas, and received a reproach?

He said he did.

Whether he was since at court, and spoke to the King?

He answered, Yes.

The *Chief Justice* said, that not one word of this was evidence.

Mr. *Tooke* said, since there had been so much difference of opinion about evidence, he wished to learn from the Bench what was evidence?

The *Chief Justice* said, that the conduct of the gentleman now upon examination, whether he acted rightly or wrongly, or whether it was approved or disapproved, were points that had nothing to do with the present question. If there was

any

any thing in that conduct to affect Mr. Tooke, then the examination would be proper, but not otherwise.

Mr. *Tooke* said, that his object by this examination was, to open a way to shew that his approving of the sending some shoes to France was distorted by an honest intention, and it was to be recollected, that he was accused of a crime in subscribing to the assistance of people in France about this time.

The *Chief Justice* said, that if he pointed it to shew at what time the war commenced, in order to shew he had no share in intending assistance to the French after that time, it would be proper evidence, because his case might in some measure be implicated in that question; but how this gentleman was received on his return, whether his conduct was approved of or not, had nothing to do with the question before the Court.

Mr. *Tooke* said, he meant by this evidence to shew what was the opinon of the minister at this time with regard to an Englishman assisting the French; as this gentleman had done so, he thought that the reception he met with at court would be evidence to shew that: but, if he was not permitted, when accused of assisting the French, to shew what any body else had done, and how he was received afterwards, he could not help it.

Mr. Maxwell, examined by Mr. Erskine,

Swore he knew Mr. Tooke intimately; he had been acquainted with him ever since the year 1782—visited him frequently, and dined with him—had an opportunity of being intimately acquainted with his political sentiments, which Mr. Tooke had imparted to him confidentially.—Mr. Tooke disapproved highly of the system of Universal Suffrage.—He remembered Mr. Tooke saying once, at his house at Wimbledon, the conversation turning on Parliamentary Reform, that he should stand candidate for one of the close Boroughs, as they are called; and, if he did not succeed, he would petition Parliament, in order to have an opportunity of exposing that system, and bringing the Borough-mongers to shame!—There were others in company who agreed with him, and professed similar intentions; Mr. Walker of Manchester was one.

Cross-examined by the Attorney General.

He asked if he was Doctor Maxwell? He answered he was not. Being asked where he lived, he said he came from Linlithgow in North-Britain; that he generally came to town in the winter.

Mr. *Tooke.*—As you are not Doctor Maxwell, what trade are you of? or are you clerk to any body, servant to any body, or do you keep servants of your own?

A. I

A. I have ſervants of my own.

Mr. Payne, examined by Mr. Erſkine,

Swore he knew Mr. Tooke, and that he was a friend to the monarchy and to the ariſtocracy of the kingdom.

Captain Harwood, examined by Mr. Erſkine,

Swore that he is an officer in the army, Captain in the 19th Regiment of Dragoons; he had known Mr. Tooke nearly for ſix years, in conſequence of an introduction of his uncle, who frequently alſo viſited Mr. Tooke. The witneſs and his uncle viſited him from day to day; he had continually converſed with Mr. Tooke on political ſubjects, and was able to inform the Jury, that Mr. Tooke had the higheſt veneration for the government of this country, as it conſiſted of King, Lords, and Commons; he had heard Mr. Tooke ſay there was a great number of Borough-mongers in this country, who ought to be aſhamed of themſelves, and by continual applications made to Parliament about them, they would be aſhamed of themſelves. He made one day after dinner at his own houſe at Wimbledon, a propoſal to ſtand at the General Election for one of the Rotten Boroughs, and if they did not ſucceed, to petition Parliament, and expoſe the Boroughs, ſo as to make the holders of them aſhamed of themſelves. The witneſs, Mr. Maxwell, and Mr. Walker, of Mancheſter, agreed to it.

Ceoſs-examined by the Attorney General.

He ſaid he was a member of the Conſtitutional Society, and remembered that ſociety voting thanks to Barlow and Froſt, for preſenting an addreſs to the National Convention of France, &c.

Mr. *George Rous* was called; but as his evidence only went to the opinion of the Friends of the People on the proceedings of the Conſtitutional Society, and of the declarations in their own favour, of ſome of the parties now in confinement for High Treaſon, the priſoner could not have the benefit of Mr. Rous's teſtimony, the Chief Juſtice having decided this not to be admiſſible evidence.

The Biſhop of Glouceſter examined by Mr. Tooke.

Q. How long have you been acquainted with me, my Lord?

A. Forty years.

Q. Was that acquaintance, my Lord, a ſlight, or a confidential one?

A. Very

A. Very confidential indeed for many years.

Q. Does your Lordſhip recollect knowing me at the Univerſity of Cambridge. I believe we were together there?

A. Yes.

Q. Do you remember, my Lord, any circumſtances reſpecting my being refuſed the degree of Maſter of Arts, at Cambridge?

A. I do recollect that you was oppoſed.

Q. Does your Lordſhip recollect any other perſon being oppoſed, and is it not ſuch a degree as would be given to any?

The *Chief Juſtice.*—For the honour of the Univerſity this queſtion ſhould not be put in this ſhape.

Mr. *Tooke.*—I mean no reproach upon the Univerſity.

The *Chief Juſtice.* No, I do not ſay you mean any reflection, I only ſay it is not neceſſary to put a queſtion in that way.

Mr. *Tooke.*—Does your Lordſhip think that the oppoſition I met with, aroſe from the immorality, the ignorance, or any known inſufficiency or defect in my character in life?

A. I underſtood the oppoſition to originate entirely from ſome letters which were publiſhed in the public papers, ſaid to be written by you to Mr. Wilkes, and publiſhed as ſuch.

Q. Does your Lordſhip recollect that Lord Mountford took an active part againſt me upon that occaſion?

A. I do.

Q. Does your Lordſhip recollect, that in conſequence of that oppoſition, a very minute and ſtrict enquiry was made into my character at the Univerſity, and that I called for every charge to be exhibited againſt my character?

A. I have an imperfect recollection of that kind.

Q. Did they produce any thing eſſential againſt me?

A. They did not.

Q. Is it poſſible, in your opinion, my Lord, that during my ſtay there, any well-founded charge could be laid againſt me with regard to my morality and general character?

A. I certainly thought at the time no ſuch objection was brought againſt giving you your degree, and, therefore, I gave my vote for your receiving your degree.

Q. I believe your Lordſhip was then Tutor, and Public Orator at the Univerſity?

A. I was at that time Public Orator, it was, I believe, in the year 1771, or 1772.

Q. I beg to know whether it is not your Lordſhip's opinion that I was then, as I am now, in point of political ſentiments?

A. I

A. I never knew you vary in your political ſentiments in my judgment.

Q. Have we talked freely and familiarly together very often?

A. Certainly.

Q. Did you ever, from converſing with me on my own ſentiments, find that I was diſaffected to any of the eſtabliſhments of the ſtate, civil or religious?

A. No, I did not.

Q. Can your Lordſhip ſay, you are not perſuaded, from the courſe of my life, that it has been diligent and tolerably ſtudious?

A. Very ſtudious; more ſo than that of moſt men, certainly more than that of many.

Q. Does your Lordſhip recollect when I was at the Univerſity, aſſiſting me with books there?

A. Yes, books that were no where elſe to be had. I believe they were very valuable books, they came from the Bodleian Library, at Oxford.

Q. Does your Lordſhip ſuppoſe that I was more employed in depoſing the King, and overturning the State, than in inventing new words, and new meanings to words?

A. I know you have been very much employed in the latter, and I have no reaſon to believe you ever were in the former.

Croſs-examined by the Attorney General.

Q. Does your Lordſhip know any thing of the London Correſponding Society, or the Conſtitutional Society, for the laſt three years?

Mr. *Tooke.*—I think, my Lords, the Attorney General and I, are now upon a level. There certainly is as much indecorum in the Attorney General aſking the Biſhop of Glouceſter what he knows of Political Societies, as in my aſking a Member of Parliament, whether the Miniſter had refuſed to exchange a bow with him.

The *Chief Juſtice.*—There certainly is no ſtrict irregularity in this queſtion; but I cannot help ſaying, it does not appear to me neceſſary to aſk ſuch a queſtion of the Biſhop of Glouceſter.

The *Attorney General.*—What is evidence in a Court of Juſtice ſhould come from the Biſhop of Glouceſter as well as any other man.

Here the evidence for the defence cloſed, and it being now nine o'clock, the Court adjourned till ten o'clock next day.

FIFTH DAY.

FRIDAY, NOVEMBER 21, 1794.

The Court met at ten o'clock.

Mr. *Gibbs* was proceeding to addreſs the Jury.

The *Chief Juſtice* obſerved, that in the opening of the defence a great deal of ſtreſs was laid upon the acquittal of Mr. Hardy; he muſt now apprize the parties that it would not be poſſible to hear again any thing upon that circumſtance, unleſs the acquittal was made evidence in court upon this trial; no mention ought to have been made of it at all, unleſs it had been intended to make it evidence; the Court therefore would not permit it to be mentioned again, unleſs the acquittal was made matter of evidence; it was not produced in evidence yet, and he underſtood that the caſe on the part of the defendant was cloſed, as far as regarded evidence. This he only took notice of that the gentleman at the bar and his counſel might be apprized of the ſituation they were in; if it was made evidence, the Court would allow obſervations to be made on it, but if not, nothing ought to have been ſaid upon it originally, nor could any thing be made of it now.

Mr. *Erſkine* ſaid it was impoſſible for the priſoner to know what judgment the Court would pronounce of the nature of evidence, until he heard that judgment. It was clear from what paſſed before the Court laſt night, that his client was ready to rely on the evidence he had already offered, becauſe he was convinced that he had already offered ſufficient to entitle him to his acquittal; he was apprehenſive that the Court would require them to produce the record of the acquittal, if that was admiſſible evidence as it ſtood at preſent.

Mr. *Gibbs* ſaid, that the charge againſt the gentleman at the bar, was, that he conſpired with certain other perſons to do a certain act, and one of theſe perſons, with whom he was ſaid to have conſpired, had been declared innocent on the record of the Court, but he apprehended there would be a difficulty in producing the beſt evidence of this, namely, the record itſelf, for he was afraid that the record of the verdict was not formally drawn up.

The *Chief Juſtice* ſaid he underſtood that the records at the Old Bailey were perfect, for the purpoſe for which they were wanted on the moment the verdict was recorded, and he aſked Mr. Shelton if that was not the caſe in point of form.

Mr. *Shelton* answered in the affirmative.

Mr. *Gibbs* then submitted that record to be evidence in this cause.

Mr. *Tooke* said that he had concluded his evidence last night of his own accord, and that if he had omitted this piece of formality, his Counsel were not to blame; he thought from the whole complexion of the cause, he ought not to bring any more evidence.

The *Attorney General* consented to wave any objection that might be urged in point of form upon this matter.

Mr. *Erskine* said, he, on behalf of Mr. Tooke, left it entirely to the Court.

The *Chief Justice* said, the acquittal of Hardy might be talked of in a general way, and might be, and probably would be, thought of, by some who might think too much of it, as to the decision it ought to have on other cases, and this was always the case when evidence was opened or stated, and afterwards not brought forward; that Hardy had been acquitted was publicly known, and therefore to ask men to lay it entirely out of their recollection, was asking men to do what was not in their power, but the Court would not allow any thing to be said of it in this trial, unless it was made evidence regularly in the cause; if proved in a regular way in this cause, then it would be evidence in favour of the defendant; as far as that acquittal would go, that would lead into the evidence that had been given in this cause, that would have tended to fix Hardy with the conspiracy, of which there was a good deal which tended to that point, would be matter to go to the Jury in favour of the defendant; it was for that purpose, and in order that the true bearing of that point might be brought about, he mentioned this, and that it might be seen how far this circumstance might be found fairly to apply.

The record of the acquittal of Hardy was then admitted by the Attorney General.

Mr. *Gibbs* then proceeded to address the Jury on behalf of Mr. Tooke. It was now, he said, become his duty to observe to them on the case, which the Counsel in support of it, said they had made out on the part of the prosecution against the prisoner at the bar, and in order to make the statement of the case intelligible, the better way would be to state the law as applicable to the facts charged in the indictment before them, than what the facts were which were complained of, and then to find out how the law applied to these facts. With regard to the crime charged, they could not find it from better authority than from the authority of the Court

Court itſelf, and expreſſed in the caption of the indictment itſelf; their Lordſhips, by the commiſſion under the authority of which they ſat, to hear and determine upon High Treaſon, which was ſtated to be compaſſing and imagining the death of our Lord the King, that was the only part of the authority of the Court itſelf, and therefore the only queſtion for the Jury to conſider would be, whether the gentleman at the bar had compaſſed or imagined the King's death, for that was the only ſpecies of Treaſon applicable to the ſtatement on the record, and ſubmitted to the juriſdiction and authority of this Court; and whatever Mr. Horne Tooke might have been guilty of, if it ſo happened, any where elſe, or in any other manner than as thus ſtated, he could not be tried for it in this Court, nor under this indictment. The firſt then to be conſidered was the Treaſon ſtated or complained, and then the overt-acts by which, on the part of the Crown, it was inſiſted that this was Treaſon. The charge in part of the indictment was, that the priſoner, with ſeveral others, had compaſſed to bring our Lord the King to death, and he would ſay that this was the only material charge in the indictment; if every thing elſe, by way of charge, had been omitted in the indictment, it would have been as good as it was now, with all the other general charges, and if that ſingle charge had been omitted, the indictment would have been bad; therefore, in the whole view of the caſe, the only charge againſt Mr. Tooke was, that he had compaſſed and imagined the death of the King; but the indictment alſo charged the means by which he had done this, and for that purpoſe ſpecified ſome overt-acts. The overt-acts had been ſtated to be done to bring the intention to effect, which was compaſſing the King's death, and then it was alledged that Mr. Tooke did this as charged againſt him; if this part of applying the act as evidence of the intention had been omitted, the indictment would ſtill have been bad. The Jury would therefore ſee that they firſt had to try the exiſtence of theſe acts, and, if they found an affirmative upon that point, then the tendency of ſuch acts. The acts themſelves charged againſt the priſoner were, that he agreed with others to procure and cauſe to be held a Convention of the People, to act againſt the government of the country, and to depoſe the King; there were other counts, but he took the meaning of the charge as it was in ſubſtance, that the priſoner had compaſſed the death of the King, and in furtherance of that view, had done acts ultimately tending to produce his death.

These were the acts stated to be Treason in the indictment; the questions for the Jury to try would be, Whether the statement of the acts be true; and if so, whether they were done with the design imputed to the defendant? Having said this, he should now state to the Jury the law, and consequently the authority under which the Court had power to decide upon the matter before them. The authority was that of the 25th of Edward III. from the very recital of the cause of passing the act, it appeared that Treason before that time had been undefined by law, in consequence of which, loose, vague, and arbitrary determinations of Judges decided on the lives of all subjects charged with High Treason, so that no man knew when he was safe under such law; it was a consideration of this that made our ancestors enact the statute, and by this statute, there was no construction whatever to be put upon the meaning, but the act expressed precisely what should be the law. After this, no construction of Judges was to determine upon Treason; every man had proper information given to him, and might know what the law was; formerly men were bound to look up to the opinion of Judges, and receive their authority as the law of Treason; but now we had a higher authority to look to, the authority of the law itself, and what had formerly been matter of law in the breast of the Judge, became now a matter of fact in the breast of the Jury. The makers of this excellent statute, aware how difficult it was to guard a defendant against prosecution for Treason on the arbitrary constructions of Judges, expresly prohibited the Judges from making any constructions, except the plain meaning of the act itself, and that if any new case shall arise, it shall be judged of by parliament: thus shewing that they had a suspicion at that time of what future Courts might do, and their suspicion was not ill founded, for after this, Judges had taken upon themselves to make such constructions on the law of Treason, that in the reign of Queen Mary, an act passed to prohibit the Judge from exercising any authority whatever, as to construction on the act, and by this, the statute of the 25th of Edward III. was restored to its purity again, and that at this day, thank God, was the Law of England upon High Treason: and the question to be tried under it in this case was simply, Whether the gentleman at the bar was guilty of compassing the King's death? Here Mr. Gibbs quoted the comments of the great oracle of the law, Lord Coke, to shew that the overt-act must be clear, specific, and expressed; nothing in this charge was clearly and specifically to be taken notice of, but the compassing the

the King's death, as laid down in the 25th of Edward III. and that was the queſtion which the Jury had to try. Now let us ſee what had been the conduct of one of the greateſt men in this country; he alluded now to the trial of Lord Ruſſell, in the time of Charles II. when that great and illuſtrious, that able and upright Judge, Lord Chief Juſtice Pemberton, and alſo as able and as juſt a Judge as ever ſat upon the bench, let us ſee what his opinion was of the law of Treaſon:—The charge againſt Lord Ruſſell was then, what the charge againſt the priſoner was now, compaſſing the King's death; the overt-act charged againſt Lord Ruſſell was, that he conſulted and concluded on raiſing an inſurrection and rebellion againſt the guards appointed for the protection and preſervation of the perſon of the King; by this ſome perſons might ſuppoſe that this was of itſelf a clear act of Treaſon, for that the guards were for the preſervation of the life of the King, and if ſo, the Judge muſt have told the Jury ſo. Let us ſee whether he did tell them ſo. Lord Chief Juſtice Pemberton told the Jury, the queſtion was not whether Lord Ruſſell did conſpire to ſeize the guards, but whether, upon the whole matter, they, the Jury, did believe that Lord Ruſſell had a deſign againſt the King; whether he aimed at the deſtruction of the King—the taking away his life. The matter charged was, that he had compaſſed the King's death; it was ſtated that he had conceived and conſulted an inſurrection; that was evidence for the Jury to conſider, whether the priſoner embarked in that conſpiracy for the King's death: the Judge ſtill continued that the fact of ſeizing the guards was great evidence that it was the priſoner's deſign to effect the death of the King; but it was for the Jury to think, whether he thought of bringing the King to death by what he did; plainly proving by all this, that unleſs the intent of Lord Ruſſell was manifeſt to the Jury to kill the King; the learned Judge was clearly of opinion it was not High Treaſon. The learned Judge concluded his addreſs to the Jury on that trial, by ſaying, "If you believe he did conſpire the death of the King, you will find him guilty, if not, you will acquit him."—"So ſay I for the priſoner in this caſe," ſaid Mr. Gibbs. "If you believe from the evidence produced before you, that the priſoner did conſpire for the death of the King, and that you are convinced of it from the facts, as you have them related to you: I, his counſel, ſay you ought to find him guilty; but, I ſay too, from the authority of the great Judge whoſe opinion I have juſt quoted, if you do not find that he conſpired the death of the King, you muſt not find him

guilty

guilty—This is not the mere opinion of an Advocate, but the authority of an upright enlightened Judge."

With regard to the queſtion in a legal point of view, he ſaid, it did not appear to him to be neceſſary to diſcuſs the nice point of law which ſome might ſee in a queſtion of Treaſon. "If the Jury thought the Defendant was guilty of conſpiring to depoſe the King, that it followed by law he was guilty of conſpiring his death;" that was not a point, he ſaid, neceſſary for him to diſcuſs now, becauſe be defied any Jury upon earth to find him guilty upon the evidence in this cauſe. But as to that point of law, that if a man was guilty of conſpiring to depoſe the King, it followed that he was in law guilty of conſpiring his death; he verily believed if the deciſion of thoſe who ſtated that to be a point and concluſion of law, and not of fact, came to be argued and compared with the ſtatute, the queſtion would then come to be a queſtion between the authority of a deciſion and the authority of the ſtatute, for it did not appear to him poſſible to ſuppoſe both. This was all he ſhould ſay upon that ſubject now.

There were three things for the Jury in this caſe, and one for the Court.—For the Jury, firſt, to know whether the Priſoner compaſſed the King's death?—Secondly, Whether the overt-acts were committed by the Priſoner?—Thirdly, if he did commit them, whether they have a tendency to compaſs the death of the King? Theſe three were for the conſideration of the Jury, and excluſively for the Jury.—For the Court—to know whether the overt-act ſtated in the indictment, as committed by the Priſoner, be a good overt-act in law to ſatisfy the ſtatute?

Having dwelt longer than he intended, he would come now to the facts.—The charge againſt the Priſoner was, as he had often repeated, compaſſing the King's death, and the act by which this was to be made out was, that he agreed with others for holding a Convention for overturning the Government, and for the purpoſe of deſtroying the King; there were other Counts in the Indictment that this was done by a general conſpiracy. The Solicitor General ſaid in opening the caſe, that he charged the Priſoner at the bar, with a conſpiracy to depoſe the King, and that he meant to do this by his own force, or by the force of thoſe under his controul, or thoſe whom he might direct.—Now the Priſoner and his Counſel, on the other hand, ſaid this never entered into the mind of the Priſoner, nor thoſe with whom he is ſaid to conſpire; that they never heard of any ſuch intention, until they heard it read out of the indictment. He and his Counſel ſaid alſo that theſe gentlemen had an object which they proclaimed to the world, and communicated to their friends,

friends, an object from which they never deviated. The Prisoner at the bar, in particular, in the whole course of his public life, stated his object to be that of a Parliamentary Reform; and that such was his object in reality, after hearing the evidence, no man living could doubt who had the least rationality. The instrument for accomplishing his purpose of deposing the King, and overturning the Government, was stated to be a Convention, and the overt-act in the case was the act he is sai to have committed in prosecution of his intent to depose the King, and to bring him to death. Let us consider a little these overt-acts.—On the 28th of March, a letter is received from the London Corresponding Society, proposing to the Constitutional Society that they would concur with them in a certain object.—What was this?—What did it mean?—A full and fair representation of the People.—But this was to be done by Delegates.—What if it was?—Was there any rule of law that laid it down that what a man may lawfully do for himself, he shall not be permitted to do by his Delegate?—Most certainly there was not.—If, therefore, it was lawful for these men to confer on the means of obtaining a Parliamentary Reform themselves, it followed of course that it was lawful for them to do so by Delegates. —When these Committees met, What did they do?—Why they debated even upon the word Convention, and although Convention and Meeting were the same thing exactly in meaning, yet on account of an apprehension that the Convention might be misunderstood by many, the Latin word was abandoned, and the Saxon, now an English word, adopted; that was the mystery of the proceeding of this correspondence, and yet on the part of the Crown this was magnified into a clear overt-act of High Treason. Great force, it seems, was to be employed to carry on the dark intention of these Conspirators; for this purpose we see them appoint a Ministry and a Cabinet, by the title of a Committee of Co-operation;—look back, and you will see what all this mystery means; for after, the Committee meet and draw up their Report, and then out comes the great secret—they are determined to apply for a Parliamentary Reform by peaceable means! This was the construction that every man put upon it, and the construction that ought to put upon it, because it was the only one which the evidence justified. But on the part of the Crown it was maintained that this proceeding was an evident circumstance of the horrible design of deposing the King;—now all he could say upon such a circumstance was, that the construction of the Counsel for the prosecution upon the transaction was monstrous and unnatural. If any doubt arose on the intention of men by one action, the better way to find out that intent was to look at their actions afterwards. The first man arrested was Mr. Hardy; his

his arreſt took place on the 12th of May, and yet we never heard of any thing of this treaſonable plot, nor of the actions of any of the parties for more than a month afterwards. Was this evidence of the deſperation of Traitors juſt burſting into rebellion! Had the Jury credulity enough to ſwallow this—that a Society who had appointed a Committee of Co-operation, and ready for the moſt daring deſperate deeds, would ſleep for a month. But on the part of the Proſecution, they ſaid there was a plan in this, for although they did nothing for a month, they thought and meant there was more in it than met the ear.—They were like Lord Burleigh, they did nothing but ſhake their heads; there was a great deal more in inactivity than a man of common ſenſe could find, and the Counſel for the Crown would prove it to the Jury. They endeavoured to prove it by their only witneſs, who knew, if there was any conſpiracy, the whole of the plot—Mr. Adams, the Secretary of the Society for Conſtitutional Information. The Attorney General did rightly in calling Mr. Adams, for he knew that Mr. Adams was, of all men in the world, the fitteſt to be examined on points concerning the ſecrets of the Society; the Attorney General knew how much he had to make out, according to law, to convict the Priſoner, and, therefore, he called Mr. Adams; but when Mr. Adams came, inſtead of unravelling the plot, he proved that no plot exiſted. It appeared, according to the opening of the Counſel for the Crown, that theſe men were to arm, and as they were to bring about their object by force, they, of courſe, were to provide themſelves for the purpoſe; they knew, of courſe, that money were the ſinews of war, and, therefore, the Counſel for the Crown called the Banker of the Society, to tell the Jury the amount of the national revenue of the Society, which amounted to the ſum of ſixty guineas a year; a ſplendid revenue this, no doubt; but the expenditure was alſo great, for, out of that, the expences amounted to fifty guineas! The ſurplus and growing produce was ten guineas, for overturning Government and depoſing the King! Notwithſtanding this flouriſhing ſtate of finance, the Commiſſary was obliged to iſſue Letters of Credit, and his Exchequer Bills, ſo that the Society was found, at times, to be in his debt to the amount of nine or ten guineas! It was in this ſituation that the Society became ſo formidable; and this it was that excited the alarm for the overthrow of Government!—Well, but the Counſel for the Crown would ſay, it is true this Society was a little poor, to be ſure, but there were others who would aſſiſt with what ſhould be wanting. How could that be? had they forgotten that they inſiſted on the London Society for Conſtitutional Information being the fountain head of all the reſt, and

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was it not proved on the former trial that Yorke, one of the delegates of one of the Societies, refused to go to Scotland, because the Society was too poor to pay his expences. In short, the whole of the tale was such nonsense as could not impose upon the most weak and credulous creature in the kingdom. Here he went through the whole of the subject of the pikes, and maintained that they were proved in evidence to be for the self-defence of parties, who had been threatened by others who opposed them. He then took notice of the evidence of Mr. Sharp, the engraver, and maintained that it proved not the case for the prosecution, but the Defendant's case; and it should be recollected that Mr. Sharp knew the subject, or ought to know it, in the opinion of the Attorney General, for he was charged upon the Record as a Conspirator; he was therefore entitled to say, that the Counsel for the Crown, instead of proving their case, had disproved it, for every one of their witnesses had negatived the proposition which the Counsel for the Prosecution had laboured to establish.

He then took notice of the written evidence, in the course of which he observed that not one of them contained any thing like an act of Treason, nor any thing like it; many of them were improper—some, perhaps, libellous, but none Treason; and if no one of them was Treason, they could not altogether be made Treason, for Treason must be made out by a specific act, manifesting an intention to depose the King, &c. but one thousand acts together would not amount to Treason if no one of them of itself did, for Treason was not an offence to be made out by accumulation of minor offences, making up Treason in the mass. This was not the way to prove Treason, for that offence was to be made out on a clear, plain, and simple fact. With regard to these papers, he must observe, that they were a farrago and a mass which the mind of man could not reduce into order, or from which any satisfactory conclusion could be drawn. They had been in the hands of the Attorney and Solicitor General for six months; they had been perused before the Committee of the House of Commons, and also before the Privy Council. With all these opportunities, and with their great abilities, they themselves had not been able to lay them before the Jury in chronological order.—If this was the case with the Counsel for the Crown, what must be the situation of the Counsel for the Prisoner? They had never seen any of them until they came into court, and then, when they looked at them, it was impossible to examine them minutely in the course of a trial so momentous; they had indeed applied for an inspection of them before the trial, but they had applied in vain. How were they to know how many papers might have been kept back,

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which, if produced, might long ago have decided all these trials in favour of the Defendants; but they were at the mercy of their accusers, and could fly no where for protection but to the Justice of the Jury, and there they would not, he knew it, apply in vain.

He then entered on the history of the life of Mr. Tooke, and of his political sentiments in particular, and reminded the Jury of the evidence which had been given in his favour last night, and particularly that of the Bishop of Gloucester, who had been intimately and confidentially acquainted with him for forty years. He touched on Mr. Tooke's letter to Lord Ashburton in the year 1782. Extracts from which he read. He took notice also of the part which Mr. Tooke had taken in the meeting of a society of the King's friends at the time of his Majesty's indisposition. He took notice also of what Mr. Tooke said at the first celebration of the French Revolution at the Crown and Anchor in the Strand, where Mr. Tooke manifested his zeal for the Constitution of this country, and maintained that he was a friend to order, and had never lost sight of his object of Parliamentary Reform, in which his wishes were moderate; he explained what appeared to him to be Mr. Tooke's political sentiments. All this, he said, he did at the desire of Mr. Tooke, himself, who wished the world to be acquainted with the whole of his life through the medium of this trial; not that he thought it necessary for his acquittal; for upon that subject, he had told Mr. Tooke it was his opinion he might safely call for the verdict of the Jury, immediately on the closing the evidence for the Crown; and this too was the opinion of Mr. Erskine, of which Mr. Tooke had no doubt, but he wished, as he was accused, to lay before the world every circumstance of his life.

Having done this he took notice of the case of Mr. Hardy, and he maintained he was intitled to say upon that case, that the Attorney General must at least have thought that case the strongest, or he would not have brought it forward first, for he knew well how much the interest of the prosecution was involved in convicting the first. If they had convicted him, no doubt but the Jury would have heard a great deal on the consciousness of a Jury, finding that there was truth at least in the conspiracy of Hardy, and that as far as Mr. Tooke was concerned with Hardy, there was foundation for the charge. If so, was it fair to take the other side of the question, and to say, that as Mr. Hardy was acquitted, there was so far an end to the conspiracy, and it should be remembered that Mr. Hardy was placed in the front of the battle. Mr. Gibbs then

then ſaid he had gone through all the material parts of this great trial, the reſult of the whole upon his mind was, that the Counſel for the Proſecution had diſproved every allegation they made againſt the priſoner; the witneſſes for the Crown had negatived every act which they were brought to affirm. He would borrow the evidence for the Crown to prove the innocence of the defendant. He did not for one moment entertain the leaſt anxiety for his client.—" Gentlemen," ſaid he, " my client muſt be acquitted, becauſe you are honeſt, and I have no ſcruple to ſay if upon evidence of this ſort the gentleman at the bar is to be convicted of High Treaſon, there is an end of the protection which was intended to be given to the ſubjects of this country, by that glorious ſtatute of the 25th of Edward III. and we are ſent back again to all the difficulty, all the confuſion, and all the cruelty of the laws, which it was the object of this ſtatute to remove. I am perfectly ſatisfied in my own mind, it is impoſſible to bring this caſe into any thing of the colour of Treaſon, by the law of this land. When I conſider the evidence in this cauſe coming from the mouths of the witneſſes for the Crown, even independent of the reſpectable witneſſes on behalf of the defendant, I cannot entertain a moment's anxiety for him; it is impoſſible that, with an Engliſh Jury, he can ſtand in danger. In a caſe of Treaſon the law ſays, the proof muſt be plain, direct and manifeſt. The proof here is plain, direct and manifeſt—that is, for the priſoner. There exiſts no criminality in his caſe, he is pure, and muſt therefore be acquitted. I have no ſcruple to ſay that in conducting part of this cauſe, I am now ſatisfied what the reſult will and muſt be. Not having a wiſh on my part for my client, except generally wiſhing ſucceſs profeſſionally to the cauſe in which I am engaged—not having a wiſh for any thing in politics, except for the public peace—not having mixed at all in any political affairs, having friends in both parties, with whom I am equally intimate, and purſuing nothing but my profeſſion —I do not ſcruple to affirm, I ſay, that I do from my heart believe, a ruder ſhock cannot be given to the Conſtitution and the glorious laws of this kingdom, than by convicting the priſoner now at your bar, of High Treaſon."

The *Chief Juſtice* informed the priſoner that if he had any thing to ſay, this was the proper time.

Mr. *Tooke*.—I have already ſpoken too much in the courſe of the trial, and ſhall not trouble the Court any further.

The *Attorney General*.—I feel myſelf at the preſent moment called upon to a duty the moſt awful and important, which it can fall to the lot of any individual to diſcharge. Intruſted

with the conduct of this prosecution,—a cause which involves in it every interest that can at this moment or at any future period be dear and valuable to the gentleman at the bar, I should act as an unfaithful servant of the public, if I did not consider the justice due to him as the most important part of that duty which, as Attorney General, I have to discharge. It may just be proper to state, that the present prosecution has arisen in the first instance from the highest Council of the King, Parliament excepted, the Privy Council, that it has in some measure been carried on by the sanction of Parliament in the measure which they thought fit to adopt of suspending the Habeas Corpus, and lastly, that it is submitted to you by the voice of a Grand Jury, as a proper case for enquiry. All this, however, I should deem no unequivocal evidence of the existence of guilt; I know that particular circumstances have at different times influenced Parliament to adopt the same measure, and that a Grand Jury in the conduct which they adopt are determined by *ex parte* evidence. The learned gentleman, who has just concluded, declared that he was unconnected with all party, while he gave a decided opinion with respect to what he conceived ought to be the event of the present occasion. For myself, I may be permitted to say that I trust no party attachment, no political subservience, will be imputed to me on the present occasion. Whatever advantages I possess, I owe only to my professional industry and to the exercise of those talents with which Heaven may have blessed me. In bringing forward the present business, I have acted according to the best of my judgment; no consideration on earth would induce me to take one step contrary to my conscience. I cannot hope that my name will descend to posterity on account of any thing which relates to myself; but in the present it must be coupled with that of the prisoner, and I trust my conduct will appear to be such, as may not forfeit to my children that inheritance which I would wish to bequeath them; the professional probity of their father. Before I enter into the case, I beg leave to state once for all, that when I discharge my duty, and there is a duty which I owe to the prisoner as an English subject; by this acknowledgment I do not take upon me to state the facts of the case; those I leave to the determination of the Jury. The turn of the cross-examination of Adams, the Secretary to the Society for Constitutional Information, as conducted by the gentleman at the bar, had certainly a tendency to make out that he had no such connection with that Society as could be made the foundation of any serious charge. I am not prepared to say with the learned gentleman, even in that case I should have immediately dropped

ped the prosecution, because I had a public and important duty to discharge, but I should certainly have felt myself considerably relieved. But in taking up this prosecution, it was impossible for me not to be acquainted with the circumstances of the case, and what distresses me most, indeed beyond conception in the present instance, as it respects the prisoner at the bar, a gentleman of learning and accomplishments, is, that I must regard the defence which has been attempted to be made out as resting upon a case of fraud, calculated to defeat the ends of justice, by artfully keeping out of view the principal delinquent, and bringing in the agency of third persons, in order to screen him from detection and punishment.

This I state upon my own notions of the case, though I must say, that if the prisoner was really sincere in the sentiments which he has held out in his own justification, never was there any man who put so many others in a state of misconceiving what were his real views, and gave them reason to suppose, that while he professed one thing, he in reality aimed at something very different. And if it shall be found in the course of these trials, that other persons charged in the indictment have gone much greater lengths, which may have rendered them responsible to the laws of their country, the circumstance that he to a certain degree has been an instrument of misleading them, must remain as a weight upon the mind of the prisoner to the last moment of his life. Upon the circumstances, however, which I am prepared to state, I think, Gentlemen of the Jury, that it will be your bounden duty to find the prisoner guilty. The Constitution has made an admirable provision against the mistakes which are liable to result from the frailty of nature, or from an abuse of power. The Crown is provided with its Council; responsibility is attached to those who have the office of advising his Majesty. In Courts of Justice the Judges have a certain jurisdiction; but the task of determining on the guilt or innocence of the person accused, rests with the Jury. A Jury may indeed be mistaken; but it is an excellent principle, that it is better that five thousand guilty persons should be acquitted, because the Jury are doubtful with respect to the question, or because they have not sufficient powers of comprehension to embrace the body of evidence that may be brought forward, than that they should bring in a verdict of guilty, while they are themselves labouring under the misery of the smallest degree of doubt. If the most mischievous man in the world should be brought to the bar, you are bound to find him Not Guilty, if there be not evidence sufficient to convict him of the crime with which he is charged. I repeat, therefore, what I said in the first instance,

instance, that I dismiss from the present case all analogous or constructive Treasons—all Treasons founded upon a parity of reason—all charges merely of a libellous nature. For though in the course of the evidence you may find numerous instances of libels, you are not bound to attend to them, except so far as they may appear to have been brought forward in fulfilment of the treasonable intention charged in the indictment. And first, I shall shortly state the law of the case. The indictment proceeds upon the ground, "That a conspiracy to depose the King is an overt-act of High Treason." As the authority of Lord Coke has been brought forward, it may be proper to state that these are his very words. A conspiracy to levy direct war in the kingdom, is also an overt-act of High Treason. Upon this point the Attorney General quoted the authority of Foster, in the passage which concludes "small is the distance between the prisons of Princes and their graves." Gentlemen, the experience of modern times has not tended to contradict the truth of this position.—Had I desired a witness to prove, that the prisoner had been guilty of this sort of conspiracy described by Foster, I could not have had one more for my purpose than Major Cartwright. He has clearly shewn that the principles entertained by the prisoner were such as were calculated to lead to all the consequences of such a conspiracy. Let his plan be what it will, if no one of his actions had tended to impeach his intentions, and there was not one of his actions since March, 1792, which was consistent with his professions, if he was really sincere in the declaration, that he would stop at Hounslow, while others went on to Windsor, still the effect of those principles, which he held out, was the same. What could be meant by the recommendation of the works of Paine and of Barlow? What could be meant by the proceedings of the Society for Constitutional Information, and of the London Corresponding Society, in the month of April, 1793, proceedings which were explanatory of what afterwards took place at the Scotch Convention, the dinner at the Globe Tavern, and the meeting at Chalk Farm; proceedings to which the Counsel on the other side had not even dared to set their face. The effect of all those proceedings was to lead to the adoption of a Jacobinical system in this country, to produce, not such a Revolution as destroyed the wretched system of Government in France, but a Revolution upon the model of that which followed the deposition of the King, and terminated in a system of total anarchy and confusion.—The prisoner thought that by getting men to approve so and so in the first instance, he would be able to lead them to the accomplishment of his object—the deposition of the King.

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In order to ascertain this point, let me beg you to attend to the address to the French Convention, from the Society for Constitutional Information, of which the gentleman at the bar may be considered as the author. He well knew that he could not proceed with a design to depose the King before the year 1789, because, previous to that period, he wanted the means which promised a probability of success to such a design. The Attorney General then quoted some passages from the address to the French Convention, in which the expression occurs, "that the principles of the Revolution of the 10th of August are the only principles upon which any Government can stand." He likewise quoted the letter from the Society for Constitutional Information, to the Society at Stockport, where mention is made "of infant Freedom making Herculean efforts, and the vipers, Monarchy and Aristocracy, writhing in the pangs of dissolution." Can it be said that the author of such a letter could possibly wish well to Monarchy and Aristocracy? To what Monarchy can he be supposed to allude, except to that of England? I beg the learned Judge, in summing up the evidence, particularly to call your attention to the contents of this letter. I deny that it is necessary in order to find him guilty, but that it should appear that he has given his consent to the plan of a Convention; though this point is, in my opinion, established by indubitable evidence.—There are many acts done by the Constitutional Society, besides those which relate to a Convention, which amount to overt-acts of High Treason. If I find that they did not intend to depose the King, or deprive him of life, but by numbers and force to compel him to change his plan of Government, and take a different Parliament, still the Treason is the same. The King is bound by his coronation oath to govern according to the laws and customs of the country, and to resist all such attempts even at the hazard of losing his life. I will not detain you one moment by adverting to the meetings that took place in 1782, or enquiring what were the objects of these meetings or in what manner they were composed. Whether they were or were not composed of Delegates, they have not the smallest reference to the present case. The case which we have attempted to prove is not that these Societies intended to use numbers and influence in order to induce Parliament to comply with their views, but that, on the contrary, they meant to set aside the authority of Parliament altogether, and considered it even as incompetent to grant the object for which they were associated. I will not remark upon the evidence of Mr. Sheridan, because I am sensible that a man seldom does any good to his own cause by entering into any discussion which may lead him to

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examine the merits of a different question. Supposing that I should give the prisoner credit for having had no knowledge of any other Societies throughout the kingdom, of Societies in Ireland or in France, still the charge against him must remain the same, that he, as governing those Societies, during the month of April, 1793, concerted the plan of a Convention, which was to have nothing to do with Parliament—to act independently of its authority, and even to supersede its functions. I cannot, however, dismiss the subject of Societies in France without one remark;—the prisoner treated the attempt to prove a resolution to print a hundred thousand copies of a paper, when in reality no such number had been printed, as all moonshine. What was the intention of such a resolution? —to make a more forcible impression, by giving to the public a formidable idea of their influence and numbers. Such exactly was the policy adopted in France at the commencement of the Revolution. By such means was that Revolution effected, by spreading an idea that there were a hundred thousand men here, and fifty thousand men there, prepared to cooperate in the purposes which the leaders had in view. I must here advert to one argument:—the Counsel on the other side remarked, that he might call Hardy to prove this, and Lovet to prove that. He might have called every member of the Constitutional Society to exculpate the prisoner from those transactions in which it was asserted that he had no share. But in fact he had called none, except Mr. Simmons, who seemed to be very little acquainted with the secrets of the proceedings, Major Cartwright who was himself very considerably implicated in those transactions, up to the year 1792, and Capt. Harwood, who had proved some of those very points that were contended for by the prosecution. The Counsel on the other side had let out that though he had not called Mr. Hardy in the present instance, he meant to bring him forward as a witness in the next case. Upon what principle Mr. Hardy was acquitted I do not know. I trust that on that trial I did my duty as Public Prosecutor, and it would be impossible for me without violence to the Constitution, to suppose that the Jury had not done theirs, and acquitted themselves like Hon. Gentlemen. The case of Hardy is, however, very different from that of the prisoner at the bar. He stood in the same situation as Broomhead at Sheffield, and might be told that as Secretary he had no right to put a negative upon any resolution agreed to by the Society. But in the present instance there could be no pretext to alledge that the prisoner did not understand the nature or foresee the effect of those proceedings, in which he was engaged. Why then were not Hardy and Lovet called

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upon to declare that he had no ſhare in the correſpondence of thoſe Societies, in which they had declared that they had given up all idea of any application to the King or to Parliament, and of the proceedings which took place at the Globe Tavern and at Chalk Farm, evidently grounded upon ſuch a reſolution? Why was not ſome Member preſent at the Meeting of the Society on the 17th January, 1794, called to prove that when Mr. Tooke left the Chair, previous to the Reſolution being paſſed, approving of the proceedings of the Scotch Convention, he had at the ſame time left the room?

The obſervations that had been made on the evidence of the Crown, compared with the inferences to be drawn from the omiſſion of evidence ſo material on the part of the Priſoner, were mere chaff, and ought to weigh nothing.

The *Attorney General* then proceeded to comment on the particular evidence on the Addreſſes to the French Convention, on the adoption of a Declaration ſimilar to the French Declaration of Rights, and on the appointment of Paine and Barlow as honorary Members of the Conſtitutional Society. From theſe acts, he inferred a diſpoſition to introduce into this country, the French principles of equal Citizenſhip, and Revolutionary Government. The Priſoner foreſaw with reſpect to this country, as Mr. Barlow had done with reſpect to France, that were once the Declaration of Rights to be adopted, Monarchy could not much longer exiſt. Even if he had ſucceeded in proving that he was a friend to the limited Monarchy of this country, and only deſirous of a moderate Reform; yet if this Reform was to be effected by force, he would ſtill be guilty of High Treaſon. But from the reſult of the various letters to Mancheſter, Norwich, and Sheffield, could it be believed, that he was in his heart a friend to the ſyſtem of limited Monarchy? Could ſuch a ſuppoſition be inferred from his unqualified approbation of Paine's Rights of Man, the firſt and ſecond part—works directly aimed at the Conſtitution of the Country, and the Family on the Throne?—Could he foreſee that theſe works would do no miſchief by being put into the hands of unlettered men, who were not qualified to form a proper judgment of the contents, or diſcriminate between abuſes in the Adminiſtration, and vices in the Conſtitution. The attempt to prove the diſtribution more ample, and the circulation more numerous than was really the caſe, was a ſtronger proof of the artifice of the proceeding, and the miſchief of the intention. The work of Mr. Barlow went directly to ſhow the abſurdity of a Royal Democracy, and to predict the deſtruction of the Monarchy in France. What

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does Mr. Horne Tooke do? Does he renounce principles so abhorrent from his own, and disclaim all connection with the Author? No, he proposes to him a vote of thanks for his works, to be published in the papers, thus evidently shewing his desire to introduce into this country the same sentiments that were recommended to the People of France, in order to ground upon it the same practice. He then proceeded to comment more largely upon the Address of the Society to the French Convention, to the contents of which he particularly called the attention of the Jury, and from which he inferred a determined intention to destroy the Monarchy of this country, and introduce into its stead a Republic. He asked why Mr. Frost was not called to explain this Address. It appeared from expressions made use of in that Address, that it was even then their intention to introduce into this country a Convention upon the same model as in France; their views in this respect had been obvious to the President of the National Convention, and could not surely be mistaken by an English Jury. The Attorney General then proceeded to remark on other parts of the evidence, which as they have been already and fully and repeatedly brought forward in the course of the trials, we deem it unnecessary to detail on the present occasion. He went into the various correspondence of the Societies, the proceedings relative to the Convention in Scotland, &c. from all which he drew an inference that there existed a regular design, carried on by a system of affiliated Societies, of assembling a Convention in order to subvert the Constitution. The guilt of this conspiracy he endeavoured to fix on the Prisoner by the active share which he had taken in some of these measures, and the approbation which he had given to others. He supposed him all along to have been acting a more dangerous, because a more guarded part, and that his professions of attachment to the Monarchy, were intended only as a blind to his real views. He only concealed his designs till they should be fully ripe for execution, and pretended to be a friend to the Monarchy, that he might more effectually destroy it. The pretext of wishing for a moderate Reform was only held up from a belief that if one point was gained the rest would follow. It was found to be a convenient standard, under which, to assemble all who were desirous of any reform; none, however violent in their views, were rejected. The Prisoner had said that he would stop at Hounslow, while others might go on to Windsor, but when he had come to Hounslow, would he really have stopt, or would those whom he carried with him have been able to stop? Was it any apology for a man who was going upon a bad project, that he was in company with others who were

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going further than himſelf. It had been alledged that the funds of the Society were ſmall and inadequate to any purpoſe that could be attended with ſerious danger to the country. It was not to money they truſted, but as Joel Barlow ſtated, to the effect of phyſical force; it was not on the funds of the Society for Conſtitutional Information, but on the numbers of the Correſponding Society that they placed their reliance. An approbation of the proceedings of the Scotch Convention was clearly fixed on the Priſoner by his letter, ſoliciting a ſubſcription for Sinclair, in which he ſtated the conduct of that Delegate to have been moderate. At any rate it was eſtabliſhed by the reſolution which he came to on the 24th January, 1794, adopting thoſe Reſolutions of the London Correſponding Society, paſſed at the Globe Tavern, on the 20th, and expreſſing an approbation of the proceedings of that Convention. An approbation of the plan of a future Convention to be held in England, was likewiſe fixed by the Reſolution of the 11th April, in his own hand-writing, round which a ſcore was drawn.

The *Attorney General*, after having ſpoken to theſe points at great length, concluded—The queſtion is, whether there was to be a Convention of the people not governed by the laws of the country, but acting from its own authority, and uſurping the functions of the legiſlature. If ſuch a charge be eſtabliſhed, I ſubmit to the ſuperior wiſdom of the Judge who preſides here, and who is now to ſum up for you the evidence, whether it be not clearly an overt-act of High Treaſon? Such I clearly conceive it to be, yet happy ſhall I be if the priſoner reap any advantage from my error. It is for you to conſider, whether, from the evidence that has been laid before you, it does not appear that the whole tenor of his proceedings from the 6th of Auguſt, 1793, down to the preſent moment, was calculated to bring about ſuch a Convention as I have now deſcribed? If ſuch be the caſe, it ſignifies nothing that he reſiſted the plan of ſuch a Convention being immediately carried into execution, becauſe he might conceive the proper time for ſuch a meaſure not to have yet arrived, and his deſigns as not fully ripe to be carried into execution. He is equally guilty if he ſhall be found convicted upon any act of the indictment. Any one act clearly ſupported, amounts to a manifeſtation of that diſpoſition of mind which is required by the ſtatute of Edward III. to conſtitute the crime of Treaſon, and which if you ſhall find to have actuated the priſoner, you are bound to give a verdict guilty. I ſhall conclude with ſaying, that it has been proved that arms were provided at Sheffield, no good reaſon has been aſſigned why a

communication on the ſubject of arms ſhould have taken place between the ſocieties in London and Sheffield; and though this part of the evidence has not been brought home to the priſoner, yet as in my view of the caſe, the object of the propoſed Convention was to maintain itſelf by force, in oppoſition to the Conſtitutional Authorities, it will be for you to determine how far this circumſtance is entitled to your conſideration.

Having thus, to the beſt of my judgment, diſcharged my duty, I am ſenſible that I have already encroached too much on your time, and feel myſelf too much exhauſted to proceed any further. I deſire that the priſoner, to whom, as well as to the country, I owe a duty, may reap the full advantage of every error and miſconception into which I have fallen. If I am miſtaken, you, I am ſure, will do your duty; and may God Almighty enlighten your mind, and direct your deciſion to that iſſue which ſhall be moſt conducive to the peace of the country!

Here the Court adjourned for ſome refreſhment.

At ſix o'clock, the Court being reſumed,

The *Chief Juſtice* after ſtating the nature of the indictment, and the ſeveral overt-acts charged in it, ſaid, it was now expected that he ſhould ſum up the evidence. Having done that as well as he could, he ſhould then endeavour to ſhew how it bore upon the acts charged, and to point out what would be the material parts of it, for the ultimate conſideration of the Jury. He then proceeded to recapitulate the evidence from his notes, with very little remark, reſerving the ſelection, arrangement, and his obſervations, till he had firſt gone over the whole.

At nine o'clock he ſaid that if there were any hopes of getting through the ſumming up, without adjourning, he would go on as long as his faculties would permit: but, as from the great length of the evidence, he could have no ſuch hope, he thought it would be better now to adjourn, and meet at nine in the morning.

The Court adjourned accordingly.

SIXTH DAY.

SATURDAY, NOV. 22, 1794.

At nine in the morning, the Lord Chief Juſtice reſumed his ſumming up of the evidence, which he went through with ſuch minute attention, that it was half an hour paſt ſix in the evening

ing before he came to his general obſervations. Theſe he delivered nearly in the following words:

Gentlemen, this is all the Evidence, except one circumſtance which I muſt ſtate to you, namely, the acquittal of Hardy; this I told the priſoner would be proper to be in evidence, in order to entitle him to the benefit of it on this trial, and in order to ſhew that any thing of guilt to reach Mr. Tooke through the medium of Hardy is at an end in this ſuppoſed conſpiracy, that being concluded by the acquittal of Hardy.

Gentlemen, having gone through the whole of the Evidence, the caſe comes now for your judgment; and indeed, I ought to thank you, in the name of the public, for the patience you have had, and the attention you have given to the whole of this very long evidence, and the other facts of this trial.

Gentlemen, you have now a ſerious duty caſt upon you which, after the pains you have taken, I have no doubt you will diſcharge with ſatisfaction to your own conſciences, and conſequently with ſatisfaction to your country. I ſtated in the former cauſe that there was no entanglement on the point of law; and I apprehended that it was impoſſible ſuch an idea ſhould have been ſtarted in this: I did not imagine it was a point that would require to be much diſcuſſed, that a Jury would be bound to find that he who conſpires to depoſe the King, compaſſes and imagines the death of the King. It is a preſumption of fact ſo undeniable and ſo concluſive, that the law has ſpecified, and the law has pronounced, that he who depoſes the King has compaſſed and imagined the death of the King. All the beſt writers, and thoſe who have been quoted in the courſe of this trial, ſtate the law to be ſo. Every one of them whoſe general doctrine was quoted, was of that opinion; they all conclude that a conſpiracy to depoſe the King is a deciſive overt-act to compaſs the death of the King; ſo Lord Holt expreſsly lays it down.—In the caſe of Lord Ruſſel, the overt-act was of a different nature, and capable of another explanation; and there was ſtrong evidence on which the Jury might exerciſe their judgment; they might ſay that a man who attacked the King's guards had not compaſſed the death of the King, that he might ſome way or other explain it, and rebut the force of that evidence. I ſhould therefore give you no further trouble on that ſubject.—I ſpeak in the hearing of my brothers upon the bench, who, when I ſtated the law on the former trial, agreed with me in that ſtatement, and that it has been underſtood to be the law for many centuries, I muſt ſay a few words. God forbid that in a caſe in which no rational man can doubt the intention to depoſe, it ſhould be underſtood to be law that that is not compaſſing his death. That he who depoſes the King muſt neceſſarily mean

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to destroy him, is most clear; that his death is necessarily connected with his deposition, no man can doubt; and therefore he who deposes the King the law declares to be guilty of compassing and imagining his death. I should therefore trouble you no further upon that head, if it were not for the sake of a numerous Bar attending, and the sake of the Public, that I should make it clearly understood that the Court did not assent to the law in a particular point as laid down, in an admirable speech we all heard yesterday from the learned gentleman who addressed you last on behalf of the Prisoner. A speech which, with the single exception of that point, was the most able and the best I ever heard upon the subject. It was laid down that there is a difference between a case depending on the common law, and the case of a specific crime declared by Act of Parliament. This was said, as if by an Act of Parliament, the jurisdiction of the Court was concluded, and that the opinion of the Judge on the meaning of the Act of Parliament was out of all question. I heard this stated for the first time. Nothing is more clear than that, let an Act of Parliament be what it may, let the proposition in it be what it may, it is always matter of law what is the meaning and true construction of that Act of Parliament; that this is for the Court to decide, and that whether it be an act expressed in three lines, or in a much larger compass, is out of the question, the Court must still have that power. It must always be for the Court to enquire and determine whether the case brought before them comes within the meaning of the Act of Parliament or not. So is the theory of the law in my apprehension: so it has been my custom to understand it from others, and so have I practised upon it; in the course of 30 years experience, I have never heard this called in question. A distinction cannot be made in this case from any other, because the Act of Parliament is in two or three lines, and in a few plain words: the law, 'tis true, may be clearer on that account, but the construction upon that law must still be where it always has been, with the Court. In parts of this very Act of Parliament, instances may be shewn of the truth of this doctrine. No man ever thought but that the treason of levying war is a question of law—of adhering to the King's enemies, that is also a question of law. In the case of levying war, all of us remember that the point was argued; there was a special verdict found upon it, and it came to be fully argued and determined in the case of Damary and Purchase, whether there was or was not a levying of war. There was a difference of opinion upon the Bench, but the Court solemnly decided that the levying was a question of law.—All this I mention merely, that there should not be a mistake upon the law, and that no misapprehension should take place in that particular. Having said this, I ought

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to obſerve, that I have great pleaſure in doing juſtice to the other parts of the ſpeech I alluded to, a ſpeech which I heard with as much pleaſure as ever I had in hearing a ſpeech. In ſhort I ought to ſay in juſtice to the learned gentleman, that I never heard in my life a better ſpeech than his, fitter to be delivered to a Jury on a caſe of High Treaſon, or fitter to be liſtened to from the Bench in a cauſe where very much depends upon the Counſel on both ſides, and where their opinions, when ſo ably delivered, juſtly impreſs upon the minds of the Jury what they are to judge of and determine upon, and at the ſame time giving material aſſiſtance to the Court in the examination of the law, pointing out the ſubjects on which the Court ought to think moſt attentively, and with their abilities enabling the Court the better to go through the caſe in every point—much better than they could do without ſuch aſſiſtance. This I take to be not only right for the Priſoner in ſuch a caſe as this, but alſo, eſſentially uſeful to the Public, and likewiſe, contributing to enable the Jury to take into their conſideration the points moſt neceſſary to arrive at the truth and juſtice of the cauſe. Having ſaid this, I now come to the queſtion in this cauſe.

Gentlemen, I have ſtated to you that the caſe for your conſideration is a caſe of fact, and a great ſatisfaction it is to me, that if any errors have eſcaped me, and many great ones may, the attention you have ſhewn to the whole of the evidence will enable you to ſupply my defects.

Gentlemen, the maſs of this evidence is quite new to you; you have had no means of knowing any thing of it, except what you may have read through the imperfect accounts which newſpapers have given you. It is to you the firſt, it is to us the ſecond laborious inveſtigation—This ought, you will ſay, to enable us the better to go through the caſe; and yet, although it might have that effect, I am not quite ſure that the order of thought is not overborne by the repeated preſſure of ſuch a vaſt quantity of matter. I am really afraid that it is the caſe in this inſtance. I ſhall, however, ſtate to you my thoughts in the beſt manner I am able.

Gentlemen, there are two claſſes of evidence to be examined by you in the determination of this caſe. Firſt, as applicable to the general project of a Convention, charged by the proſecution to be intended to uſurp the power of the Government. Second, to fix on the Priſoner at the bar, a participation in that deſign; but I think the courſe of the evidence will reſolve theſe two into one, which will be, whether the Priſoner has been concerned, and has participated in a plan to eſtabliſh in this country a National Convention, to uſurp the power of government. If he has done ſo, he has been concerned in a plan to depoſe the King,

King, for the moment the powers of government are usurped, the King is deposed. It is difficult to draw the line, and distinguish between a plan to usurp for a particular purpose, or to a certain extent, and a plan to usurp the whole. If any part of the legislative authority be usurped, the kingly authority is gone to that extent, and all the mischief will and must follow; all the danger to the person of the King will follow, because he is bound to support his government, and, at the hazard of his life, to restrain that usurpation, even to the extent of that hazard, which the Attorney General alluded to in the course of his speech; so that a plan for any body of men to take upon themselves the power of the country, to interfere with the legislative authority of the country, and to effect any thing of this kind by force, seems to me necessarily to involve the deposition of the King. This is very different from resistance to any part of the executive authority, or for overturning any part of the law, for, in that case, if the party attempting does not succeed in overturning or overpowering the whole law, the law may be still strong enough to support itself by punishing those who attempted to overturn it. But when the power of the legislative authority is usurped, there is no law; the whole is gone, and all the kingly authority is gone.

Gentlemen, the project for a National Convention has had some effect from experience, on men's minds, and to a certain degree that project is clearly made out by evidence; for it is clearly proved there were persons who had formed the intention of having a Convention, and it can hardly be denied by Mr. Tooke that he participated in this intention to a certain extent, although not present in the committee of co-operation.—But the question most material for him to dispute, and for you to consider, is, "For what purpose was this Convention to be held?" With what intent was it to be called? The intent makes a part of the description of the overt-act, and the intent here is a matter of fact.—In some other cases, the intent is only connected with the crime, and blended with the fact of the charge in a way that does not make the intent a part of the crime; for instance, if a man does me an injury, he must make me satisfaction for that injury; he cannot shelter himself under the innocence of his intention, because he has committed the fact, and the intent is a thing that follows of course; it would be immaterial if it did not, for it is nothing but a mere incident, and is never required to be proved; but in a case of this nature, the intent is an essential ingredient, in truth the great foundation of the charge, and as much

much to be proved as any other fact. To this point, I mean the point of the intent of calling this Convention, the whole series of the evidence you have heard ought to be examined. There is evidence to prove that intent, of which you are to judge, and that from all the circumstances before you. This chain of evidence is nothing like accumulative Treason; this is not like the evidence in the case of Lord Strafford—not one of the acts attempted to be proved are adduced with such a view as that. Although not Treason individually, two or three, or forty of them, by their accumulation, are to be called Treason. This is not the view in which they are to be considered.—They are all offered as evidence to prove the *intent*, and that may be proved by a thousand circumstances, as well as by one clear act—that is, there is as much to be collected from a body of evidence, consisting of a number of circumstances, as from one fact.

Gentlemen, with regard to the case now before you, you will observe that the avowed intent is a Reform in the Commons House of Parliament, and, on the part of the defence, it is insisted upon, that this intent is innocent. But the counsel for the prosecution undertake to shew you that the true intent is of a treasonable nature: they say, on the part of the prosecution, that the words Parliamentary Reform ought not to be understood, in this case, in their obvious sense—that there is an equivoke in them; they say, Parliamentary Reform, expressed, in one place, Radical Reform—in another, full and free Representation of the People in Parliament—in a third, and full and free Representation of the People—in a fourth, without mentioning parliament, are, all of them, mere colour.—They say all these terms have in them an equivoke. On the other hand, the prisoner says, that the words King, Lords, and Commons have no equivoke at all, but are to be taken in their plain and obvious meaning; and most undoubtedly, in all cases, a Jury will take the side in favour of innocence, more especially where a party is accused of a crime, where the intent is the most material part. I say, you would understand the words favourably for the prisoner, and therefore construe them as he says they should be construed, unless you find yourselves obliged to come to a different conclusion. But, on the part of the prosecution, they say, look at the context; look at their addresses to the Jacobins and the French Convention, and you will find the true interpretation of their words. Now, gentlemen, I say, as I said on a former occasion, the evil intent is not to be made out by nice verbal criti-

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cism. Expressions may be loose, unguarded, and even extravagant; but you are not from this to infer that the persons who use them mean all that these expressions might be interpreted to mean. We must therefore look at the context and the conduct of the parties, in order to ascertain their meaning. Men may express themselves honestly, though perhaps without grammatical correctness, and therefore we must look further than some of the sentences in the papers read might seem to import. Gentlemen, it is with the whole context that you will consider the words; you will look at the connection of the different parts, and see their bearing on one another; for that is the way to fix the meaning. Now, for that connection, we are going to involve the transactions of two societies in London, in correspondence with others in England, in Scotland, and in France. The Society for Constitutional Information was the elder, and at first Parliamentary Reform, on the Duke of Richmond's plan, was the object. The London Corresponding Society was instituted in 1792, professedly also for the purpose of obtaining a Parliamentary Reform, and that upon the Duke of Richmond's plan. I think the evidence is so, and although a great deal of violence very soon followed that seemed to call in question the truth of that declaration, yet I think I may say that the Society for Constitutional Information, was so instituted, and that this will be your opinion also, unless you should see very clearly that it was instituted for some other purpose. Some attempt to make out a proof of this kind was made, on the part of the prosecution, and to fix it on the prisoner at the bar: some little way they went towards it. They proved his hand-writing, and they proved some intercourse between the London Corresponding Society and Mr. Tooke; but I am clearly of opinion, that they did not go far enough for their purpose. This charge is of the most serious nature, and ought not to be found by a Jury but upon the clearest proof. It is not matter of belief. Without positive proof, from all we know of the intercourse of man with man in common life, it is not credible that an individual member of a society, by his influence over the other members, should be able to change the original purpose of that Society, without the other members knowing that the original purpose was changed. This Constitutional Society appears to me to be nothing more than a mere club. But the Corresponding Society is of a very different complexion. It is so composed as by dividing and sub-dividing—each division, as soon as it amounts to a certain number, sending off a new division—as to spread over the whole country.

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Every other ſociety, no matter how remote, it incorporates or affiliates, till it embraces an extent incalculable. It is undoubtedly a political monſter, ſo portentuous that I behold it with dread and horror. It is alarming to every man who loves peace and order—more eſpecially when we know that the National Convention of France has been obliged to ſuppreſs a ſimilar ſociety; for although they raiſed themſelves to the power of governing by means of that ſociety, they felt that they could not proceed with the authority of government while it was ſuffered to ſubſiſt. Such a ſociety muſt have a great effect on the peace and tranquillity of any country; and in this I muſt ſay, it appears to me to be the moſt powerful combination, an engine capable of the greateſt effects the world ever ſaw. If you look to the evidence,—and I do not intend here to go beyond it—you will find that it was the object of the leaders of it, to obtain power for the purpoſe of uſing it with force. The Editors of the Patriot, at Sheffield, tell the plan adopted for making converts, for which purpoſe they were to traverſe the whole country, diſſeminating principles that are directly hoſtile to all the conſtitutional authorities of this country; and I leave you to conceive, if you can, to what extent this might have proceeded, if it had not been checked; probably many members of this ſociety may hear what is now paſſing in Court; if they are honeſt men, they will ſee the danger of countenancing ſuch ſocieties. Honeſt men, without abandoning their principles, may abandon means of carrying thoſe principles into effect, which they ſee to be pregnant with diſorder and miſchief. If they have grievances to complain of, they will be content to communicate their grievances through ſuch channels as are known to the conſtitution and the laws. They will deſiſt from practices which ſo immediately endangers the peace of their country and the happineſs of mankind.

Gentlemen, I have already obſerved that the Counſel for the Proſecution thought they could trace the inſtitution of this Society to the Priſoner at the bar. What is the true effect of the evidence on this head?—You will ſee, by the evidence, that the project of a National Convention was firſt ſuggeſted in a letter from Stockport, of the 7th of December, 1792; and I do not ſee that in any alarming view. The Attorney General tells you that you are to collect much from the papers of the 6th of Auguſt, 1792; of that you will judge having heard the evidence. It is evidence before, by way of ſhewing that the idea of a Convention did not originate in this Society; that there had been in London a meeting by delegates, for a Reform

in parliament, about the year 1780, or 1781. Mr. Sheridan gave evidence of this, and he calls them a convention; he describes them in terms that amount to the description of a convention, and he puts it in guarded language, that this convention was to act on the legislature, not by force, but by the awe and respect which parliament will always bear to the collective sense of the people; leaving to parliament the freedom of discussion; leaving the application to create what it might naturally be expected to do on the minds of those who compose parliament.

Gentlemen, we all know that a National Convention took place in France, which did overturn and take possession of the government there; and it is in evidence before you, that there had been a public demonstration of the interest which many persons in this country took in the downfall of that government; the principle on which the change in the government of that country took place, had been also demonstrated in this society. They thanked Mr. Paine for his first and second parts of the Rights of Man, which they approved by a vote of thanks in an unqualified manner; so they did his letter to Mr. Dundas. They proceeded in the same manner, with respect to Mr. Joel Barlow, whose work was published about the same time; then follow eager invectives against government, aristocracy, and particularly against the House of Commons. These works were industriously dispersed among the people. The tenour of the works of Paine and Barlow you are perfectly apprised of; they were in some degree calculated for the meridian of France; but both of them, in a great measure, plainly and distinctly applying to this country. They certainly contain attacks against the monarchy and the hereditary dignity of this and every other country, for they proceed upon the model of the republic of America and France; and they hold them out as proper forms of government for our imitation; for there is no such thing as disguising that they were published and dispersed industriously, without any notice that might in any manner tend to put the people on their guard as to what in these works was to be rejected. Now I ask, is it fit, or ought it to be suffered, in any well regulated government, that general principles, be they what they may, should be circulated without the least qualification; that the poison should be diffused without the antidote; that these works should be put into the hands of every man, without any thing to guard him against the bad parts. What must be the consequence of such industry, but that the minds of the people will be changed, and their affections alienated from the government; that they must be prepared

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for the crisis which the violence of violent men leads them to wish for, and then the country must come to a civil commotion, the horror of which is but too much exemplified in a neighbouring nation. Now, in this state of things, these preparations being thus made, these societies proceed on them; and here follows addresses to the Jacobins and the Convention of France, transmitted by Mr. Tooke himself. In these addresses there is one very exceptionable passage which you have heard. On the 10th of August, 1792, an address is proposed by the Corresponding Society to the Society for Constitutional Information, in which they do not agree, but resolve to address the National Convention of France separately. Next follow the principles communicated both by Margarot and Hardy, on the expediency of another measure (signatures to a declaration of the pacific disposition of the people of this country towards the people of France); but there is no direct evidence that Mr. Tooke saw either of these persons, or concurred with them; and therefore you must infer that he did not. The two societies address the convention separately. Gentlemen, this appears to me to be a measure of a very doubtful nature. It is stated to be quite lawful in time of peace. I am not prepared to say so. The interference of a large body of men in this country, who are well affected to their King, in the affairs of another nation at war with some of the powers of Europe, even in time of peace with ourselves, is not a thing so clearly lawful as it seems to be insisted upon, for our Constitution enables the King only to judge of these things. It appears to me that I should not pass this entirely unnoticed, or suffer it to be understood as a thing clearly innocent. Without, therefore, giving any opinion positively, I state it as a thing of a very doubtful complexion. But whatever may be the complexion of the act in that view only, they say, on the part of the prosecution, that it may be criminal. They say, object to these addresses, inasmuch as they have an aspect towards this country; because they say it is preparing men's minds to a change of government at home. But here again, Gentlemen, I would not examine the wording of this address too nicely by grammatical rules and verbal criticisms; we should allow it a liberal construction. But what are we to say of Frost's comments? The society as a body, and Mr. Tooke, as a member of it, have thought fit to declare that Revolutions will now become easy; that it would not be extraordinary if addresses were to come from France to a National Convention in England. Now is it possible to say, what this is, or rather, is it possible to doubt? It might be said that Frost

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and Barlow exceeded their instructions; but that is entirely excluded—for they transmit what they did to the Constitutional Society, and they receive in return, an unqualified approbation from that society. The President of the National Convention answers them in the same strain; I lay no great stress upon this—it might be natural enough for him in the then situation of France, but it cannot implicate the prisoner or the society to which he belonged.

Gentlemen, the measures taken in the early part of 1792, deserve your notice. The countenance given to Paine's works, and to the works of Barlow, the address of the 6th of August, with the invectives which followed against the government of this country—all these inflammatory things, are said by the prosecutors to have paved the way for an intended National Convention in England; and it is submitted to you that the prisoner is implicated in these proceedings. They had no direct reference to a Convention in England of the same description as the Convention in France; and therefore, the Convention proposed by the Stockport Society must be understood, I think, to mean a Convention for Parliamentary Reform; for there is nothing decisive in evidence to give it a different sense. There is a great deal of doubt, whether or not that was their real meaning, for it was proposed by men who avowed republican principles, men for a Reform on the Rights of Man; who are however said, I cannot say how truly, to be ready to assent to a Reform consistent with an attachment to King, Lords, and Commons. It is difficult to believe this. However, although there are many suspicious circumstances, it would be too much, perhaps, for you to presume on the evidence, to say that the Society at Stockport intended to subvert the government. But, is it possible to say that the National Convention, which was to be felicitated from France, was intended to be of any other nature than that which they were at that moment felicitating?

Gentlemen, if these previous measures had the effect to prepare the way for such a Convention as this, look at the succeeding ones, and those of this society in particular. The introduction of St. Andre and Barrere, as honorary members, and their speeches on the inviolability of the King of France, being ordered to be inserted in their books—speeches which contain principles that seem to have no possible connection with a Parliamentary Reform—you will see whether they can have any object but that of destroying one of the bulwarks erected for the safety of the King in this country, and of recommending to men's minds, a system which tended

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to destroy him and the government together.—This is a material question for your consideration. It was observed that others had published speeches of this nature, and were not prosecuted—certainly, when they appeared in the general mass of newspaper intelligence. However much it might be wished that such principles never were circulated among us in any shape, yet having no relation to our government in that shape, there is no way of fixing criminality upon the publication. But when the public attention is called by a society that had congratulated France on her Revolution, and by those who had pronounced that Revolutions would become easy; that they expected a National Convention here, to be congratulated from France; the question is, whether the offering these publications in that manner, has not a different complexion, and whether it is not a proof that men's minds were intended to be prepared for a Convention which would not respect the inviolability of the King?

Gentlemen, a British Convention in Scotland, was set on foot in the year 1793. I am not able to trace any thing in this society upon the subject till after the Convention met. In November, it appears in evidence that this Society sent delegates to the Convention in Scotland. These delegates first put it in motion. The Convention had met and adjourned from time to time without doing any thing; and although it was actually adjourned, when the delegates from London arrived, they easily prevailed to have it again assembled before the period of adjournment was expired. Gentlemen, consider the nature of that Convention, their close imitation of the proceedings of the French Convention, both in words and forms; and although they originally debated on trifling subjects, they did so with much formality. They divided into sections; they formed committees; and though dealing in small matters, were organized in such a way as would enable them to manage the largest concerns, if they should have the opportunity. They appointed a committee of ways and means to manage a collection, and although this collection was of small amount, it was so conducted as would have enabled the same committee to manage the whole revenue of Scotland. Skirving values himself upon having been the principal introducer of these formalities, which although not apparently necessary, might enable them to meet, without embarrassment, the most important events. It appears to me impossible that all this could be meant as preparatory to an application to Parliament for Reform. Connect this with their proceedings, and you will find they appoint a Committee to prepare a declaration of the imprescriptible and inalienable Rights of Man; and when the scroll of a petition to Parliament

ment is presented with regularity and order, they put a negative upon it. Now whether all these forms and proceedings were, as has been alledged, mere solemn mummery, is for your consideration; or whether this Convention was so framed and so conducted as to enable them to feel the pulse of the People, and to act as that pulse should beat. That Convention was held in Scotland, where the lower classes of people are given to reading and thinking, and likely soon to be acquainted with affairs of this nature. The Members of it might therefore suppose that a favourable impression, in consequence of local circumstances, would be made. How soon the countenance of the People in Scotland, to these proceedings, might have given such effect as to enable the Convention to assume a tone of royal authority, appears to me to be a question of a very dangerous nature; at the moment when these proceedings were dispersing all over the kingdom, the Convention itself was dispersed; and happy it was for the peace of the country that it was dispersed. Proceedings were had in the Court of Justiciary, and some of the parties were punished. Their cause was taken up here; great indignation was expressed in this Society; great pains were taken to irritate the public mind on the subject; and to aggravate the grievances of which they complained, on which I shall not say one word in this place, beyond the reach of any ordinary remedy. In the Meeting at the Globe Tavern, they go the length of voting an Address, which says, that no redress is to be expected from laws which are the laws of their plunderers and oppressors; that the founder of our religion has told us we cannot gather grapes from thorns nor figs from thistles. Where then are they to look for redress but to some law of their own making?—They pretend to reverence the law:—how can that be? What reverence have they for the law, when they renounce the protection of the law, and when they tell you they will have nothing more to do with it, but that they will have a law to themselves?

In this state of things a Convention was proposed here, and resolved upon by this Society, in which the Prisoner is implicated. If this Convention was intended to be such a Convention as that in France, any one act towards carrying it into effect would be an overt-act of Treason. It is charged, that they met, in a Committee of Co-operation, to consult on the means of bringing about a Convention, which, if made out, would be another overt-act of this species of High Treason. To conspire to call a Convention, for such a purpose, would be to conspire to depose the King, and every act to bring that about be an overt act of High Treason.

But

But now we come, Gentlemen, to the great queſtion for your conſideration—Was it a Convention of that nature? I go on to look at the context of theſe proceedings, and from that, one can hardly believe, even though there is evidence of it, that Parliamentary Reform was the ſole object of this intended Convention, nor help ſuſpecting that more was meant. But the queſtion is, What more was intended, and what was the preciſe object? If they did not mean Parliamentary Reform, what did they mean? This you muſt ſee clearly before you pronounce. It is not enough that you have ſuſpicions, or that you incline to think they muſt have meant more than they expreſſed, you muſt diſtinctly ſee that they meant to aſſemble a Convention for the purpoſe of uſurping the Government. On the part of the proſecution, it is contended, that they meant to call this Convention for the purpoſe of uſurping the Government. This, it is ſaid, is clear, becauſe they have proclaimed to the world that their object was to have a Convention, and to put us into the ſame ſituation as a neighbouring country where there is ſuch a Convention; and that after all, their conduct, coupled with this declaration, and all that is connected with it; after paving the way to overthrow the Monarchy and the Hereditary Ariſtocracy, their intentions muſt be taken to be for eſtabliſhing a National Convention in England upon the principles of the French National Convention. They further ſay, on the part of the proſecution, that it is not enough for the priſoner to inſiſt, or even to bring witneſſes to ſwear, that his intentions were not hoſtile to our Conſtitution; for they ſay he ought to be tried by his conduct, and not by his profeſſions—and that his conduct, and the conduct of thoſe with whom he acted, in reſpect to their publications, to the Convention held in Scotland, to their Addreſſes to the Convention and different Societies in France, leaving out ſmall parts, and abandoning minute criticiſms, goes much beyond ſuſpicion, and amounts to ſatisfactory evidence of guilt. This it is that makes the ſtrong part of the proſecutor's caſe; and here, I think, they muſt leave it; for I do not conceive they go farther than to ſhew that the leaders of theſe Societies are determined Republicans; that they wanted to have a Revolution here, and that they are arrived at ſuch a pitch of Republicaniſm, as to uſe every public means in their power, and every artifice, in order to prepare the minds of men for ſuch a criſis, whenever that Convention ſhould be formed. It is certainly true, that if you look at the caſe, and the exterior of it, on the outline, there is great ground to impute this to the Correſponding Society; and it would be difficult for the Society itſelf, and for the priſoner in particular, to take them-

ſelves out of this implication, if that conſtruction be a juſt one. The conduct of the Societies, carefully obſerved, was ſuch as neceſſarily muſt create great alarm in the country; it became Government to be very vigilant and active—Government is juſtified, on the ſcore of Public Safety, in putting the perſons accuſed into the ſituation in which they now ſtand, and affording them an opportunity of explaining to a Jury, even at the hazard of their lives, certainly of their honour, a conduct liable to ſo many well founded exceptions. But that this conduct may yet be explained, is moſt true; and when the Jury comes to enquire, they will declare whether or not all theſe proceedings, which all mankind are juſtified in ſuſpecting, are ſuch as amount to proof of guilt. The Jury will conſider, that even well founded ſuſpicion is not to be taken as proof of criminality; and where they find doubts, which the evidence laid before them, and their own application of that evidence to the acts charged as criminal, cannot remove, they are bound to acquit.

This, Gentlemen, I conſider as the outline of the proſecutor's caſe, and I conſider every thing diſproved as evidence on behalf of the party accuſed. This enquiry has let us a good deal into the interior of theſe Societies, and has produced accounts, which, I cannot ſay, are much to the honour of their leaders, though many of them may be to the ſatisfaction of the public. You ſee they have employed many mean artifices; they have magnified their numbers much beyond the truth. —They ſtate themſelves to be two thouſand at Sheffield; that they are every hour increaſing; whereas it appears by evidence that they never amounted to more than ſix hundred—that they were ten thouſand upon the Caſtle Hill, when the proceedings were unanimous, while it is notorious that the number, whatever it might be, conſiſted chiefly of people whom curioſity collected, and that the proceedings were known only to a few, who had previouſly agreed upon them. They ordered 100,000 copies of a particular paper for the uſe of their correſpondents, while they themſelves admit that 5000 is as many as they ever actually publiſhed. All theſe things I conſider as an oſtentatious and falſe diſplay of their own force. They had been ſome time in the habit of miſleading the public in this manner. Although this may be conſidered, in one point of view, as mere vapor, it will certainly have a material effect upon the queſtion which you are to try; becauſe it refers immediately to the fact, Whether they really meant to uſurp the Government of the country? and becauſe it refers alſo to what the means were for effecting the end propoſed. The true ſtate of theſe Societies is here of particular conſequence.

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With respect to the Society for Constitutional Information, they appear to have had neither numbers, money, nor even zeal. The other Societies complain that they do not answer, or even acknowledge, the receipt of their communications. Sinclair, their Delegate to Scotland, complains that he is left unsupported. They do not meet—they are indolent and indifferent—and this indeed seems to be their general character. They seem to have no resources for any thing, much less such as men must reckon upon who engage in so desperate an attempt. Gentlemen, there is no direct evidence of a conspiracy to involve any individuals of this Society. Nay, the contrary appears, as far as the evidence goes. There is great difficulty in the evidence in this very head of a conspiracy, but as to the proceedings of the Constitutional Society, admitting the observations I have made, they may be laid entirely out of your consideration. The Attorney General has observed, that as to the conduct of individuals in these Societies, it is to be remarked that the prisoner was the director of them all; and, therefore, although no other individual may appear to have done any direct thing, yet the prisoner is responsible for the whole, and all the acts of the rest are evidence against him as a principal. Now, Gentlemen, on this charge I have already observed to you how far the proof will go. There is certainly more communication between the prisoner, Margarot, and Hardy, than any other. But with regard to Hardy, I must state to you that he stands acquitted; and therefore there is an end of the charge of conspiracy, as far as it can affect the prisoner through him. Gentlemen, it is no argument in answer to this charge, that, if made out, it would involve a great number of persons. The question for you to decide is, Whether or not it be true? You have nothing to do with the numbers who may be involved in it; for if there were a rebellion, 100,000 men might be engaged in it; and as many as are engaged in it are undoubtedly criminal. However, the prosecution is carried on by the direction of those who advise the Crown; and in general they select the leader, as well as they can. It is not, therefore, an objection to this conspiracy that it embraces a great number of persons; but it is certainly true, that the greater the extent of the charge, the more you are to attend to every circumstance of explanation tending to shew whether it be well or ill founded, and the more deliberately you ought to weigh it. Much, it must be owned, remains to be explained by the prisoner. Mr. Tooke went into an effective cross-examination of some of the witnesses for the prosecution; and produced also evidence in his own behalf. I think he did extremely well in doing so; for I cannot but con-

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ſider this as a charge to which it became Mr. Tooke to give the moſt ſatisfactory anſwer that evidence can furniſh.—He has called a great number of witneſſes; and I ſhall ſtate the effect of their evidence, I believe, more diſtinctly and forcibly for him, by compreſſing what they ſaid, than by recapitulating what each ſaid individually. He has eſtabliſhed by the evidence of thoſe who had the greateſt opportunity of knowing him, that his principles were directly oppoſite to Republican principles; that he was ſincerely attached to Monarchy and to the Conſtitution of this country as eſtabliſhed in King, Lords, and Commons, only quarrelling with the preſent frame of the Houſe of Commons, and even that on the true balance of the Conſtitution, which he holds to conſiſt in the King, having the free exerciſe of his prerogative, and the hereditary nobility having their due ſhare of influence, all which, he ſays, can be effected only by the Houſe of Commons being a true repreſentation of the People. He has given you demonſtrations of his principles by his public acts in 1780, 1782, 1785, 1788, and I think alſo in 1789, when political queſtions were diſcuſſed, more peculiarly calculated to bring attachment to the Conſtitution and loyalty to the Sovereign to a ſevere teſt. He has alſo given you evidence with reſpect to the habits of his life.—He is a ſcholar, devoted to ſtudy; in ſhort, a man converſing more with books than with men. Men of ſuch habits and of ſuch talents are generally more worthily employed among their books and the private ſociety of their friends, than in mixing with factions to convulſe the State.

Gentlemen, another fact we have from the evidence of Adams, which is, that of Mr. Tooke's declining health; that infirmities coming upon him, he is deſirous to withdraw from Society; that he wiſhes almoſt there was an Act of Parliament to confine him within his own garden for life; that he ſees very little company, and that little only on Sundays, when it is a mixed company, conſiſting of his acquaintance as they happen to come; that they come between two and three o'clock, and depart between eight and nine. On the principles that commonly direct the conduct of men, Mr. Tooke is, from the habits of his life, from his genius, from his infirmities, from all the circumſtances, the laſt man in England to be juſtly ſuſpected of being engaged in ſuch a conſpiracy as this which is imputed to him. The reply, I am ſorry to ſay, has made ſome impreſſion upon this defence, which, upon the firſt view of it, was ſo ſtrong in favour of the Gentleman at the bar. For with all his general ſentiments, opinions, underſtanding, habits, and infirmities, he is found actually dealing

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in this business by his intercourse with Hardy, by his interference with papers in the Society, but, above all, by the Address to the Jacobins; and that most unfortunate paper, concluding with the most exceptionable paragraph, "the vipers of Monarchy and Aristocracy are writhing and gasping under the Herculean grasp of infant Freedom." These things are all most unquestionably against his principles, against his sentiments, against his opinions, against the habits of his life, and against the pressure of his infirmities. And, therefore, the Attorney General says, had his conduct been consistent with his doctrines, his defence ought to have its full weight; but if, with these principles of loyalty, and all the advantages of superior talents, he has done these things, what can you conclude? Can you say he has not been a party? Gentlemen, he has been a party, and an active party too, and he has, on that account, much difficulty to encounter.

Gentlemen, I now come to the conclusion of the charge against Mr. Tooke, which rests on the impression which his conduct in these Societies, down from the year 1792, shall make on your minds. It begins in 1792, and is carried down to the time of taking measures to assemble the intended Convention. It refers to the real intent and purpose of his mind as to the object of that Convention. If you shall see, notwithstanding the impression this conduct must have made on your minds, and what it must have made on every man's mind, that considering the nature of the enterprise, the actual situation of the man, his principles and habits of life, the means of effecting such an enterprise, you are bound rather to refer all these transactions to some other source; you may say that however suspicious the case may be, the conspiracy is not made out; and you will say so, by finding him not guilty. But if you see the case clearly in the other light, then you will do that which the justice of your country calls upon you to do. I wish heartily that Mr. Tooke had put all these circumstances beyond all suspicion; because I see with great regret, that a man of his genius, learning and great capacity to be useful to mankind, whose character has been so well supported by the evidence of a reverend and venerable Prelate, the Bishop of Gloucester, who would flatter no man—I say, I should heartily have rejoiced that Mr. Tooke had put the whole of this case beyond all suspicion. I cannot say he has done so.—There is a great deal yet to explain which I am utterly unable to develope. Even to this moment, the conduct of this Gentleman is in various instances totally inexplicable to me. All that we have heard goes, in my opinion, but a little way towards discovering how this case really stands. The evidence

is

is before you; and it is for your minds to determine upon it. You will not determine until you have made such examination as the Case requires; you will then give a verdict such as shall satisfy yourselves; and in satisfying yourselves, I am sure you will satisfy your Country."

The Jury withdrew for ten minutes only, and being returned, their Foreman pronounced, with great energy of voice and manner,

NOT GUILTY.

A burst of acclamation filled the Court, and was instantly followed by a shout from the populace assembled without. As soon as silence was restored in Court, which it required some minutes to effect,

Mr. *Tooke* addressed the Court and the Jury to the following purport:—

"My Lord and Gentlemen,

"I now beg leave to return my sincere thanks to your Lordship, and to you Gentlemen of the Jury, for your conduct during this trial—give me leave to say, that the conclusion of it, which has given me so much satisfaction and has given you satisfaction, will give as much satisfaction and do a great deal of good to our country. I shall now tell you, what indeed I could have told you before, but what it was not regular, and therefore not fit that I should tell you before, which is the only reason why I now trouble you to hear me at all, in more words than are necessary to return my thanks. I have the pleasure to be confident you will never have the trouble of going through such a trial again. And now I will tell you, in as few words as I am able, the reason why his Lordship entertained a doubt upon my conduct. It arose entirely from my own abundant caution, and the care I took to preserve the regularity of the proceedings of this Court. It arose incidentally also, from a circumstance which I could not possibly foresee, and which I had no means of guessing at until I heard the Attorney-General's reply. In that reply he thought fit to lay great stress on the alterations which appeared in the papers in my hand writing. He insisted that the word King being inserted here, struck out there, Government struck out, and Country inserted in its stead, &c. afforded strong presumption that I was concerned in the original framing of these papers. The truth is that I had no hand in framing any of them, nor any connection with any of the Societies from which they came. I do not even know at this hour any one individual Member

Member of the Country Societies; nor ſhould I have known any thing whatever of the London Societies, but from the circumſtance of my having been Candidate for the City of Weſtminſter. In that character, I viſited them, and, to take care of a very honeſt, though not a very able man, I peruſed ſuch papers as he brought me, and, when I found that they were intended for publication, ſtruck out what appeared to me to be libellous, and corrected what appeared to be bad Engliſh—a trifling favour which I never refuſed to any perſon who applied to me. I could ſay this of a Gentleman who wrote a book againſt me; he ſhewed it to me in manuſcript, and I corrected it as I did theſe papers. I proteſt that I meant it entirely for the ſake of the law, on which our lives and fortunes muſt all depend, and by which, I hope, they will be always protected, as mine have been this night. Having ſaid this, I now declare in the face of this Court, that no man ever came into it or was diſcharged honourably out of it, who ſtood more free from the charge exhibited againſt him, than I did of that which the Attorney General thought fit to make againſt me in his reply. Nothing of this was mentioned in the Solicitor General's opening. It was not even alluded to till the mouths of the Counſel, who have defended me ſo nobly, and my own, were ſhut, and very properly, by the rules of the Court. I was content to riſk my life rather than once attempt to violate the eſtabliſhed forms of juſtice. Upon this frivolous charge have I ſuffered proſecution for High Treaſon, in which I have been defended ſo glorioſuſly by Mr. Erſkine and Mr. Gibbs; and I hope the manner in which I have been acquitted will plead my excuſe for having detained the Court after the buſineſs was over. I hope, my Lord, you will accept my thanks; to my Counſel, I tender my thanks; you, Gentlemen of the Jury, I hope, will accept my thanks; and the Law, which I love and revere, which has been ſo glorioſuſly aſſerted, will teach Attornies General, in future, how to maintain the doctrine of treaſon upon conſtruction."

The Court was then adjourned till Monday ſe'nnight.

THE TRIAL OF JOHN THELWALL,

ON A CHARGE OF

HIGH TREASON.

CONTAINING

THE WHOLE OF THE PROCEEDINGS OF EACH DAY

AT THE

OLD-BAILEY.

ALSO, THE ACQUITTAL OF

JOHN AUGUSTUS BONNEY,
JEREMIAH JOYCE,
STEWART KYDD,
AND
THOMAS HOLCROFT.

TAKEN IN SHORT-HAND AT THE OLD BAILEY.

DUBLIN:

PRINTED BY P. BYRNE, 108, GRAFTON-STREET.

1794.

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THE TRIAL OF JOHN THELWALL, &c.

FIRST DAY.

MONDAY, DECEMBER 1, 1794.

THE Court ſat at a quarter paſt nine o'clock.

JOHN AUGUSTUS BONNEY, JEREMIAH JOYCE, STEWART KYDD, and THOMAS HOLCROFT;

charged with the crime of High Treaſon, were put to the bar. The following gentlemen, being the firſt twelve who anſwered on being called, were ſworn in as a Jury, viz.

CHARLES DIGBY, Eſq.	ROBERT LEWIS, Eſq.
ROBERT BADSON, Eſq.	MARK HUDSON, Eſq.
ALEX. TROTTER, Eſq.	HENRY BULLOCK, Eſq.
ROBERT MELLISH, Eſq.	JOHN POWSEY, Eſq.
WILLIAM HARWOOD, Eſq.	HUGH REYNOLDS, Eſq.
JAMES HAYGARTH, Eſq.	THOMAS HARRISON, Eſq.

The Priſoners being arraigned by a ſtatement of High Treaſon, in a general way,

The *Attorney General* addreſſed the Jury as follows:—

Gentlemen of the Jury,

When I had laſt the honour to attend in this place, in the execution of my duty, I addreſſed the Jury for the purpoſe of ſtating to them what appeared to me to be the effect of the evidence which I had to lay before them, in the conſideration of the caſe then before them: that evidence was duly conſidered, and that Jury, in the exerciſe of their conſtitutional func-

tion,

tion, found the gentlemen accuſed under that evidence Not Guilty. It then became my duty to conſider to the beſt of my judgment what I ought to do, in the ſituation in which I ſtand with reſpect to the Public and the Gentlemen now at the Bar. The evidence which I had to offer againſt them was the ſame, or nearly the ſame, as that which was produced againſt the two perſons who have been found Not Guilty.—In that ſituation I have conſidered, to the beſt of my judgment, what is due from me to the Public and to the Gentlemen now at the Bar, and, I am of opinion, it is proper for me to ſubmit to the deciſion of that Jury, and agree to the acquittal of theſe Gentlemen; and therefore I do not propoſe to lay any evidence before you upon this occaſion.

The *Chief Juſtice.*—Gentlemen, There is no evidence offered againſt the Priſoners at the Bar; and therefore you will of courſe find them Not Guilty.

The Jury found them NOT GUILTY.

The *Chief Juſtice.*—" Theſe Gentlemen having been found Not Guilty, are now diſcharged."

They then all retired from the Bar, except Mr. Holcroft, who ſignified a deſire to addreſs the Court.

The *Chief Juſtice.*—Mr. Holcroft, you have been acquitted in a way that hardly affords much room for obſervation. But if you think it the beſt way for you, in this ſituation, you may be heard, but perhaps it would be as well for you to follow the example of the other Gentlemen who have juſt retired.

Mr. *Holcroft.*—Every man ſhould act according to the beſt of his own judgment. My judgment tells me, it is my duty to addreſs a few words to this Court, and the Gentlemen of the Jury.

The *Chief Juſtice.*—Having been acquitted, you have no right to addreſs either the Court, or the Jury. I do not wiſh to hold you ſtrictly to the right, and if you conduct yourſelf properly, I ſhall not ſtop you.

Mr. *Holcroft.*—My Lord, I have well conſidered what I have to ſay: whether your judgment and my own will differ or agree, it is impoſſible for me to know. I can therefore only beg of your Lordſhip to hear what I have to ſay. It is the deduction of an honeſt and well-intentioned mind.

The *Chief Juſtice.*—That deduction from a well-intentioned mind ſhould be properly timed; Sir, at preſent you are not called upon to ſay any thing, and you have no right to detain the Court.

Mr. *Holcroft.*—My Lord, I will not detain the Court more than half an hour.

The *Chief Juſtice.*—Half an hour!

Mr.

Mr. *Holcroft.*—After the injuſtice I have ſuffered, and which it is my deſire to ſtate here publicly in this Court—

The *Chief Juſtice.*—You have been dealt with moſt honourably, on the part of the Attorney General. You ſtood indicted by your country—no man can fairly complain in that ſituation, or ought to be ſuffered to complain, of injuſtice, becauſe in that ſituation, he complains of his country;—beſides, Sir, you brought yourſelf into cuſtody by your own voluntary appearance; you have, in conſequence of it, been treated honourably and with all poſſible attention. If you had ſtood at the bar, and evidence had been called againſt you, it muſt have been left to the Jury for their conſideration, whether or not you were guilty:—you have been called upon to go through that trial, and therefore you ſhould not be heard to complain of injuſtice.—Mr. Holcroft, I think you ought now to withdraw; but if you will be decent, I do not wiſh to ſtop you.

Mr. *Holcroft.*—As it appears to be the general wiſh that I ſhould withdraw, I ſhall do ſo, for in every thing I do, I wiſh to deſerve the good opinion of mankind. If in the exerciſe of what appears to me to be my duty I am wrong, I am ſorry I have no more underſtanding. I do not wiſh to be a violent or an obſtinate man:—I have ſome circumſtances of the greateſt importance to my country reſpecting which I wiſh to be heard now in this Court; but if it is deſired that I ſhould withdraw, I ſhall accede to that deſire, and take ſome other means of publiſhing my ideas.

The *Chief Juſtice.*—You had better take care of that alſo, for you may involve yourſelf in another ſcrape, as ſoon as you get out of this.

Mr. *Holcroft.*—My Lord, I do not ſeek to expoſe myſelf to puniſhment; but if in the diſcharge of what I conſider to be my duty, I ſhould be puniſhed, I am now, and always ſhall be ready to ſuffer.

Mr. *Thelwall*, being called to the bar, ſaid he left the challenges of the Jurors entirely to his Counſel.

The following Jury was then ſworn upon his trial.

*Adam Steinmetz, of Limehouſe, Biſcuit-maker.
James Payne, of Turnham-green, Eſq.
*John Mercer, of Uxbridge, Mealman.
*Richard Carter, of Paddington-ſtreet, Eſq.
*Nathaniel Stonard, of Bromley, Brewer.
*Joſeph Nicoll, of Neaſden, Farmer.

Andrew Burt, of Charlotte-ſtreet, Wapping.
James Stephens, of Liſſon-green, Eſq.
Jonathan Eade, of Stoke-Newington, Ship-chandler.
George Edward, of the Chace-ſide, Enfield, Eſq.
Edward Hill, of Hendon, Gent.
*Joſeph Ainſlie, of St. George's, Eſq.

Thus marked [*] *were on Mr. Hardy's Jury.*

Mr. *Percival* opened the pleadings.

Mr. Serjeant *Adair* ſaid, that his learned and honourable friends the Attorney-General and Solicitor-General having diſcharged the laborious duty impoſed upon them in the former trials, in a manner ſo highly creditable to themſelves, it fell to his ſhare, however unequal to the taſk, to ſtate the circumſtances upon which the Proſecution was founded againſt the priſoner now at the bar. Before, however, he entered into this ſtatement, there was one circumſtance to which he muſt advert. After two deciſions acquitting perſons included in the ſame indictment with the Priſoner, after what had paſſed that morning, when four others in ſimilar circumſtances had been diſcharged from the Bar, it might be aſked why he did not ſpare himſelf the trouble of entering into the preſent caſe. In what had paſſed that morning, the Attorney General had acted with that candour and honour towards the public, and with that humanity and tenderneſs of the liberty of the ſubject, which ſo much diſtinguiſhed him in the exerciſe of his profeſſional duties. It might be aſked then why he did not follow his example; he ſhould have been happy indeed to follow that example; but neither the caſes of the former acquittals, nor of the perſons who had that morning been diſcharged from the bar, had any reference to the caſe now before the Jury. He ſhould, in the courſe of his ſpeech, explain the reaſons why he was of this opinion; with reſpect to their extent and application it remained for the Jury to determine. There were two queſtions connected with every indictment; firſt, it was neceſſary to ſhew that the crime charged had really been committed; ſecondly, when the exiſtence of the crime had been aſcertained, it became proper to enquire by whom it had been committed, and whether by clear and ſatisfactory evidence, it could be brought home to the Priſoner? It was neceſſary to keep theſe two queſtions diſtinct, both from regard to the intereſts of the public, and for the ſake of juſtice to the Priſoner, who was not to be held reſponſible, except ſo far as he was proved to have been implicated in the crime deſcribed in the indictment. Though in the preſent inſtance the Priſoner was comprized in the indictment with many others, it was not leſs neceſſary that the exiſtence of the general

charge

charge ſhould be proved; but the application of the evidence to each caſe was perfectly diſtinct as it affected the different individuals. He now addreſſed many of thoſe Jurymen, who had on a former trial acquitted Hardy, and he was glad that he had the honour of addreſſing them, from the unwearied attention and ſtrict propriety with which they had conducted themſelves in the painful and arduous taſk to which they were called upon that occaſion; he was confident that in the verdict which they then gave, they had diſcharged their duty with the greateſt fidelity and impartiality. Far was he from arraigning either that verdict, or the verdict which had been given in the ſubſequent trial. And he was glad that he now addreſſed ſome of thoſe Jurymen who were engaged in the trial of Hardy, as they muſt be acquainted with the grounds on which their former verdict had been given. He would ſhew by evidence, that theſe had no application to the preſent caſe. It was not one of the grounds of that former verdict —that a doubt had been entertained of the exiſtence of the general charge in the indictment.

On that ſubject he was in poſſeſſion of the opinion of the Court; except facts had been made out to eſtabliſh the general charge, the proceedings would not have gone on from day to day, or the Jurymen kept for ſuch a length of time from their families and buſineſs. Whatever then were the motives of the former verdicts, they were ſuch as were ſtrictly perſonal to the priſoners. Before he entered into the evidence, it might be neceſſary to call their attention to the caſe. The crime of High Treaſon, charged in the indictment, was a crime of the higheſt nature, and in the laws reſpecting it the Conſtitution had taken care to provide at once for its own ſecurity and the protection of the ſubject. The charge in the preſent inſtance was compaſſing the King's death. In order to prevent the introduction of new and unheard of Treaſons, which had in former times been a ſource of great grievance to the ſubject, and which, he truſted, would never again be attempted, the Statute of Treaſon rendered it neceſſary that an indictment for that crime ſhould conſiſt of diſtinct charges, one of which muſt be clearly made out in order to eſtabliſh the guilt of the priſoner.—The different ſorts of Treaſon were themſelves diſtinctly deſcribed by the ſtatute. But the particular overt-acts by which they were made out, or in other words, the means taken for accompliſhing the treaſonable purpoſe, as they were as various and extenſive as the different crimes of men, could not poſſibly be ſo deſcribed. It was therefore neceſſary that their deſcription ſhould be taken from the authorities of thoſe caſes that had at different times come

come before the Courts. He contended, that in order to constitute the particular treason charged in the indictment, that of compassing the King's death, it was not necessary that the party should be proved to have had a direct purpose to take away the life of his Majesty. It was sufficient if he could be proved to have had an intention to restrain his liberty with respect to his government, or depose him from his royal state and dignity. If acts having such a tendency were distinctly proved, they were in his opinion sufficient to constitute overt-acts of High Treason. After the long discussion of the law which had taken place on the former trials, he would not, in the present instance, exhaust either his own strength, or their attention, by dwelling longer on the subject. The overt-acts in the indictment amounted to eight or nine, any of which, if made out, was sufficient to prove the treasonable purpose. Had not these overt-acts amounted to Treason, the indictment could not have been proceeded upon, but must have been immediately quashed. All the acts went to prove an intention of subverting the Constitution, chiefly through the medium of holding a Convention, to which point, from the nature of the evidence he had to bring forward, he believed that he might safely confine their attention. When the indictment stated the charge "to subvert and alter the legislature, rule and government now happily and duly established in this kingdom, and to depose our Sovereign Lord the King, &c. it, in his opinion, made use of more words than were necessary. It was impossible to subvert the legislature, without, at the same time, deposing the King. In pursuance of this intention, the indictment charged them with having met and consulted together on the plan of holding a Convention against the will, and in defiance of the authority of parliament, with publishing papers, in order to excite others to co-operate in their purpose, and providing arms, and conspiring to provide others with arms, that they might be enabled forcibly to carry their designs into execution. Four persons included with the prisoner in the indictment, had that morning been acquitted, he had almost said by the consent, but more properly by the forbearance of the Attorney General, in not bringing forward that which went to establish their share in the general charge. This forbearance had been exerted by the Attorney General in the most honourable manner, so as to prevent those persons from suffering one moment's deprivation of liberty longer than the law required, and at a time too when it gave to the prisoner all the advantage of the inference that might be drawn from the circumstance of their acquittal, and afforded him likewise an opportunity of calling those

those persons as witnesses who had previously been charged as his accomplices. The first question that arose for consideration was, Whether there really existed any persons, or any societies, who entertained such purposes as were charged in the indictment? and on that ground it became necessary to explain a little further the nature of the evidence on which the general charge rested. If it should be proved that there existed such societies, of one of which the prisoner was an active member, who, in pursuance of their own visionary projects, sought to accomplish an alteration in the established government, by what they termed the sovereign will of the people, and by their own laws, not those of the legislature, it was incumbent upon the prosecution to shew by evidence that such was the clear and undoubted object of the prisoner at the bar. But it was not necessary to shew that persons entertaining treasonable designs had avowed their purpose in clear and unequivocal language. Few persons under an established government would venture directly to avow that they entertained intentions of a treasonable nature. Treason was that species of crime, which more than any other concealed itself from public view. Was it likely that persons should come forward in the face of the country, with declarations of hostility to a Constitution, to which its subjects were so strongly attached, and under which they enjoyed so many blessings. This was of itself a circumstance sufficient to induce those persons to disguise, in the first instance, the extent of the object which they had in view. It was not only necessary that they should have a cloak of plausible pretext, in order to screen themselves from the vigilance of the law, but likewise to delude others to co-operate with them; to draw in the rash, the ignorant, and the unwary, till they were too deeply plunged in their schemes, to be able to recede. Such was the policy which dictated their mode of proceeding. Accordingly the object constantly professed by the society was, to procure a Reform in Parliament. He would not deny that a desire for such a reform might proceed from a just view of abuses, which really existed in the government, and were indeed inseparable from every human institution, and that a design to bring it about by legal and peaceable means might not only be innocent but meritorious. But he had no hesitation to affirm that any attempt to bring about a reform without the will of parliament itself amounted to High Treason. Could a Jury be of opinion that the glorious fabric of the Constitution, which had been growing up for ages, and had been matured by successive efforts of the virtue and wisdom of their ancestors—surely a better guide than the visionary plans of

modern

modern ſpeculatiſts—ought all at once to be deſtroyed, becauſe the London Correſponding Society forſooth thought fit that it ſhould no longer exiſt? Would a Jury be perſuaded to hazard ſuch an experiment at the expence of their liberty, property, of all that was dear and valuable to the ſubjects of this country? The very idea could not be even mentioned without ſhuddering. Even then, if the reform which was profeſſed was the true object of thoſe ſocieties, no matter whether the grievances which they ſought to redreſs were real or imaginary, yet if that reform was intended to be accompliſhed by force, the end could not ſanctify the means, and their purpoſe was clearly treaſonable. But he was very far from admitting that a Parliamentary Reform was the real object of thoſe ſocieties, or of the priſoner at the bar. That it was not their object he would be able to prove by their own acts and declarations, comparing declarations made at one time, in which it was profeſſed, with declarations made at another, of a very oppoſite tendency. Every declaration, he admitted, ought to be conſtrued favourably for the perſon by whom it is made, but this could not be the caſe if it was oppoſed by a contrary declaration of the ſame perſon, which appeared to expreſs the real ſentiments of his heart. —In the preſent caſe it was the duty of the Jury to act for themſelves, and not to throw away their own judgment. They were entruſted with the proſperity of the country and the ſupport of the Conſtitution on one ſide, and with the life and honour of the priſoner on the other. The preſent was a queſtion of the higheſt importance, with reſpect to which they were bound to decide from the dictates of their conſcience, as guided by their underſtandings, without allowing themſelves in the ſmalleſt degree to be influenced either by the frowns of power, or the applauſe of a mob. Before they pronounced a verdict which ſhould condemn the priſoner, they would aſk themſelves, Whether they were ſatisfied beyond even the probability of a doubt, that he was guilty of the crime with which he was charged? With reſpect to what was the profeſſed object of theſe Societies, a Parliamentary Reform, they would hear more fully from his learned friend, when he came to the defence. But when it was held out, that they aimed at effecting that Reform only by legal and conſtitutional means, he would aſk, What thoſe phraſes legal and conſtitutional were intended to expreſs? He knew of no other legal and conſtitutional means of obtaining an object, except through the channel of King, Lords, and Commons. In vain, therefore, did they employ the phraſes legal and conſtitutional, if from other declarations it appeared that the means to which they

looked

looked were their own force and exertions. If they conceived such means to be legal and constitutional, he had only to observe that they were most dangerously deluded.—He would now undertake to shew them, both by negative and affirmative evidence, that the case was such as he had already stated; he would not only shew that it was the intention of these Societies to subvert the established Government of the country, but would go a step further, and shew that it was not their intention to procure that Reform which they professed. For this purpose it would be necessary more particularly to shew the nature of that Society of which the prisoner was a member. The learned Counsel then went into a history of the institution of the London Corresponding Society, and of its proceedings, commenting upon them as he went along, but into this part of his speech, as the ground has already been so fully occupied by the Attorney General and Solicitor General, and the documents to which it referred, so repeatedly brought forward in the course of the former trials, it cannot be necessary that we should follow him at length. He remarked, that whatever was the purpose intended in the first institution of the London Corresponding Society, it could hardly have been more artfully contrived for danger to the public; it was in its nature prolific of mischief. It became a formidable weapon in the hands of designing men, from being divided and subdivided into subordinate societies under the same head, from its tendency to promote similar Societies in all parts of England and Ireland, connected by a constant correspondence, and co-operating for a common purpose. He would indeed have given to the inventors credit for the wisdom of their plan, if it did not appear, as he should afterwards shew, that they had only borrowed it from another quarter. A more effectual mode of disseminating opinions, contrary to the established Government of a country, could not possibly have been devised. The Constitutional Society appeared in the same connection, but was not so active as the Corresponding Society, the plan of which was peculiar to itself, and which by meeting in detached bodies, and in small numbers, was calculated to elude observation and escape suspicion. Not only the mode in which the Society concerted the plan of proceeding to be adopted in the different divisions, but the period at which the institution first took place, was extremely material. It took place at a time the most serious, alarming, and critical, for every established Government—during the progress of the French Revolution—every step of which, beyond the first, was marked with desolation and blood. It was modelled upon the same plan as the Jacobin Club in Paris, and the Societies in the country were contrived

to be exactly similar to the Affiliated Societies in different parts of France. They were not left to gather this similarity merely from inference. These Societies had confirmed it by their own conduct; they had directly addressed the Jacobin Club, and afterwards the Convention. What had such an intercourse to do with their professed object of a Reform in the British Parliament. One of their first acts was to express an early desire of fraternizing with the Jacobin Club, and of receiving into their bosom those leaders in France, who were polluted with blood. They were eager to express their approbation of the Revolution effected by Societies in that country, if the destruction of all Government can indeed be called a Revolution. Such was the nature of the Corresponding Society, the time at which it was instituted, and the model upon which it was formed. But what were their real views might also fairly be inferred from the publications which they so anxiously disperse, for the purpose, as they themselves stated, of enlightening the minds of the People, and inciting them to co-operate in their views. To these publications they themselves appealed, as the test of their proceedings. The learned Counsel then proceeded to read extracts from the printed evidence, and the books of the Societies, among which were those passages from Paine's Rights of Man, and Barlow's Advice to the Privileged Orders, which ridicule the idea of all Hereditary Government, and foretel a speedy destruction to the Monarchies of Europe. He asked whether those were the sentiments who wished to correct the vices of Monarchy, or to pull it up by the roots? Having now given what they themselves held out, as the test of their opinions, he would proceed to compare their opinions with their practice—the most fair mode of judging which could be adopted with respect to the conduct of such a man as the prisoner. If their object had been to obtain a Parliamentary Reform, as they stated, by legal and peaceable means, the moment they found that they could not succeed in that object, and that their applications were ineffectual, they would have dissolved their Society and abandoned their proceedings, but instead of that, they became more active and zealous than ever. It was evident then what was their zeal, and what their colourable object. The last was only calculated to mislead those who were better disposed than themselves—to draw the ignorant and the unwary into a common vortex, to lead them on to acts, the consequences of which none but the leaders could foresee, in hopes that step by step, they might be brought to concur in an object from which in the first instance they would have started back with horror. He then proceeded to read the Addresses of the Societies to the Convention, the

proceedings

proceedings relative to the miſſion of Froſt and Barlow, and the reſolutions appointing St. Andre, Rolland and Barrere honorary members, &c. all of which he accompanied with comments. He then read the reſolutions of a Society eſtabliſhed in the borough of Southwark, on the 19th of April, 1792, in the inſtitution of which the priſoner had taken an active part.

He went on to take notice of the proceedings of the Societies with reſpect to the Convention held at Edinburgh, and contended that the intention of the parties had nothing to do with an application to Parliament for the purpoſe of obtaining a Reform in the Houſe. That this might have been their object originally he would not deny; but then, he affirmed, that they had long deſerted that object, and the Delegates had afterwards agreed in aſſembling a Convention in England, which was to have no views of a Parliamentary Reform by petition to Parliament. In theſe proceedings, he ſaid, he ſhould prove the priſoner to have been a very active member. He maintained that if theſe points were clearly proved, it would be no anſwer to ſay that theſe perſons were too inſignificant in point of numbers to be thought of as being dangerous to the State, that they never could have been ſucceſsful, for it was to be obſerved that it was only to unſucceſsful Treaſon that the law could be ſucceſsfully oppoſed, for in the tumult of arms the law muſt be ſilent. He then proceeded to take notice of the proceedings of the Society of which the priſoner was an active member, in the month of January, 1794; and he maintained that they were direct overt-acts of High Treaſon, as charged in his indictment. In this meeting, he ſaid, the Addreſs to the People of Great Britain and Ireland was voted; and in this addreſs, he ſaid, that here they blended together real and unavoidable grievances with imaginary abuſes, for the purpoſe of impoſing upon the public, and irritating the public mind againſt the Government, and upon this there would be no doubt what was their intention, for they ſaid they muſt make laws for themſelves, aſſuming a legiſlative authority, and coming to the point at once.—And it was a direct overt-act of High Treaſon within the deſcription given to it in the indictment; it was a ſtep preparatory to aſſembling a Convention, that was to act of itſelf with legiſlative authority, which muſt neceſſarily reſiſt and call on the public to reſiſt, the eſtabliſhed Legiſlature of the Country, and this he ſhould conſider to be an overt-act of High Treaſon, until he had higher authority to correct his opinion than any that could come from the bar, however reſpectable that authority might be. He then proceeded to take notice of the Reſolutions of Chalk Farm, in

which Mr. Thelwall took an active part; he then read the material parts of the Resolutions, as also of the draft of other Resolutions which were not voted, but were found in the possession of Mr. Thelwall, and were of the hand writing of Mr. Martin, and maintained that if these papers were brought home to the Prisoner, there could not remain a doubt of his guilt, for the last of these papers went directly to absolve the subjects of this Country of their allegiance, and tended directly to their taking up arms against their Sovereign.

The next point he alluded to, was that of employing force for carrying the views of these Societies into effect, and upon this he took notice of an Association at Lambeth, by which, he said, the conclusion he drew would appear too clear; it was not possible to know, nor was it necessary for the present inquiry, whether the Convention that was intended to be called in England, were intended to have arms for themselves, the probability was that they were not; but that was immaterial, for by their own doctrine it appeared that they would, if they could, employ others in arms; they had already declared, that in certain cases they would oppose force to force; if therefore arms were to be put into the hands of people, who were taught to believe they were oppressed and plundered, they would oppose any attempt to disperse their Convention. The intent to overturn the Government, was here complete, and the act would be accomplished, provided the force was sufficient.

With respect to the parole testimony, he said he declined enlarging on it, because he thought it better to leave it to the effect it should have from the witnesses themselves, and the Jury he had no doubt would attend to it in the manner it should appear to deserve, when given, and if they should find it connected with and confirmed in the outline by the written evidence, they would give it the weight it should deserve, and of that the Jury alone were the proper judges.

He then proceeded to observe that after having gone through all the evidence which related to the Society of which the Prisoner was so active a member, there would then remain another question, without the decision of which all that he had said would not affect the Prisoner—The question was, Whether there would be before the Jury sufficient evidence to bring home to the gentleman at the bar, a participation in the guilt of all these proceedings to overturn the Government? Now, with regard to that, he had already stated that he should prove him to have been active, and a leading member, and concurring in measures, the object of which could admit of no doubt; but to confirm it, he should produce a letter written by the

the gentleman at the bar, to a friend of his in America, dated the 13th of February, 1794:—this letter he read—It stated that he, the Prisoner, had been accused of luke-warmness in the cause of liberty, but that he in fact was more eager than any body in the metropolis in that respect, and that he had sacrificed many andvantageous friendships, on account of his principles; that he admired the French Revolution; did not think so ill of the Brissotine party in France as some persons did, nor even of Marat himself, but that upon the most mature deliberation, he was convinced that the Mountain Party in the French Convention were the best defenders of the cause of liberty in France. That he was a real *Sans Culotte*. That even in America, their notions of liberty were not what they ought to be, for that they had rather too much reverence for property; they had too much religion and too much law.—This the learned Serjeant said, was a full proof of the doctrine, principles and opinions of the prisoner; he called on the Jury to reflect on the character of a true *Sans Culotte*, and, he said, they would find it in the history of the massacres in Paris and at Lyons; and he then asked the Jury to come to a conclusion as to what sort of Liberty a true Sans Culotte Liberty was. He then read another lettter from Mr. Thelwall to a friend of his in Rutlandshire, which was read in evidence on the former trials, it contained an account of some songs, &c. written by Mr. Thelwall, and the effect they had produced where he had sung them.

Having gone through all the evidence, it was for the Jury, he said, to form their own conclusion, and he was confident, he said, that if they satisfied themselves, they would satisfy their country in the verdict they gave. There was a difference between the present case and the two that had preceded it.—The case of Hardy was that of a man who seldom acted but in the public character of a Society; the case of Mr. Tooke was that of a man proved to be attached to all the established branches of the Legislature; but the case of the gentleman now at the bar was that of a determined friend to a true *Sans Culotte* Liberty, as admitted by himself; however, the Jury were to administer justice in mercy, as was always the case in this country: if, therefore, they saw no reason to distinguish this from the two preceding cases, let the prisoner have the benefit of those acquittals; he called on them to give that verdict, which, as men of fair and honourable minds, would justify them in the sight of their God, as well as of their country.

The Court then retired for an hour to take refreshment.

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The evidence consisted of papers of the Society which were read on the former Trials, and also extracts from the First and Second Part of the Rights of Man, &c. &c.

At nine o'clock the Court adjourned to nine next morning,

SECOND DAY.

TUESDAY, DEC. 2, 1794.

The Court met at nine o'clock, and proceeded with reading the printed and written evidence.—Among other papers were read the Resolutions of a Society in the Borough of Southwark, at its first institution.

John Taylor being called to prove that the prisoner was present at the institution of that Society, deposed that he had become acquainted with the prisoner in the year 1791, in consequence of walking the hospitals, which the prisoner occasionally attended; and that he had likewise met with him at a medical society. He stated that he had attended a meeting in the Borough, held, he believed, at the Three Tuns Tavern, where there were present Mr. Flavell, Mr. Gurney, the prisoner, &c. the whole number might amount to about two hundred. Mr. Gurney made a speech of considerable length, preparatory, as he understood, to the formation of a Society; in which he pointed out the general abuses of Government, and the necessity of a Reform. Mr. Thelwall said a few words, the purport of which he did not recollect. An Address was proposed, which was to be considered as an Address of the Society, and which he understood was to be published to the People. He understood likewise that the Society meant to have no connection with the Friends of the People, because they considered it as their object only to get into place. He had heard that the Address of the Borough Society, had been transmitted to the Society for Constitutional Information. He was present at the anniversary dinner of that Society in the year 1792, when Lord Sempell was in the Chair, and Messrs. Tooke, Kyd, Joyce and the prisoner were present, but did not recollect any particulars that passed upon that occasion. He had attended the Borough Society only once, and he had been also once at a Society at the Three Kings in Aldgate. He was present at a meeting at the London Tavern, where an Address

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was propoſed to the National Aſſembly, or Convention, he did not recollect which, and he believed by Mr. Thelwall.

Croſs-examined by Mr. Gibbs.

Q. What was the reaſon aſſigned by the Society in the Borough, for not connecting themſelves with the Friends of the People?

A. There were two reaſons:—Firſt, becauſe they conſidered the plan of Reform adopted by the Friends of the People, as not ſufficiently extenſive; and ſecondly, becauſe they thought the members of that ſociety not in earneſt as to the object of Reform, but that they only oppoſed government in order to get into place.

Q. Was any thing ſaid in the Society in the Borough, on the ſubject of univerſal ſuffrage?

A. Yes, a reſolution was paſſed to that purpoſe.

Q. Were not the great objects of that ſociety univerſal ſuffrage and annual parliaments?

A. Yes.

Juryman.—Were not theſe their only objects?

A. Yes.

Q. Did they avow any deſign of uſing force?

A. Certainly not.

Q. Was Mr. Thelwall preſent at theſe meetings?

A. Yes, and I recollect that he ſtated the object of the ſociety in forming themſelves into diviſions and meeting only in ſmall bodies, was in order to avoid tumult.

Q. From the whole of his converſation then you collected that he was an enemy to all violent meaſures againſt parliament?

A. Yes.

Q. Did you ever hear him ſay, that if he could not obtain a Reform to the extent of univerſal ſuffrage, he would be content with a moderate Reform?

A. I do not recollect. I only underſtood that he would not be contented with the plan of Reform propoſed by the Friends of the People.

Croſs-examined by Mr. Thelwall.

Q. Does Mr. Taylor recollect whether the circumſtance of my firſt attending the Borough Society, took place in conſequence of his calling upon me, and telling me that a ſociety was to be formed for Parliamentary Reform?

A. It may have been ſo, though I do not recollect the circumſtance.

Q. Did

Q. Did Mr. Taylor ever hear me endeavour to ſtimulate to violent meaſures?

A. Never.

Q. Has he not repeatedly heard me ſay, that whatever difference might exiſt with reſpect to ſpeculative ſubjects, no opinion ought ever to be propagated, except by the weapons of truth and reaſon?

A. I recollect to have heard you expreſs ſentiments to that purpoſe.

Q. Has Mr. Taylor not heard me expreſs the moſt marked diſapprobation of any perſon, who was diſpoſed to produce violence?

A. Yes, and I recollect that the reaſon you aſſigned, was, becauſe perſons of ſuch a character would hurt the cauſe in which they were embarked.

Q. You have ſtated that you were preſent only at one meeting of the Borough Society; do you recollect whether the ſpeech I made on that occaſion, was violent or pacific?

A. So far as I recollect, it was of a peaceable tendency.

Q. Can you endeavour to recollect whether you were preſent at another meeting of the Borough Society, at which Mr. Flavell and myſelf oppoſed the adoption of the term Repreſentative Government?

A. I do not recollect.

Q. Do you recollect whether in private ſocieties, at which we met, I was accuſtomed to ſupport doctrines of a peaceable nature?

A. I have heard you ſpeak at Coachmakers-hall, and at the ſociety at the King's Arms, and always on the ſide of peace.

Q. Do you not recollect a private Literary Society of which we were both members, and accuſtomed to communicate our ſentiments to one another with a conſiderable degree of confidence?

A. There was ſuch a ſociety in which we were accuſtomed to debate all ſorts of literary queſtions.

Q. In that ſociety did you ever hear me ſupport violence; or was I not, on the contrary, always the propagator of peaceable doctrines?

A. I never recollect to have heard you the advocate of violence.

Q. Did you ever hear me make uſe of terms of contempt againſt the perſon of the Sovereign?

A. Never.

Serjeant Adair.—Mr. Taylor, you ſtate that you never heard the priſoner make uſe of violence in his expreſſions; do you know any thing of his Political Lectures?

A. Nothing,

A. Nothing, except what I had occasion to learn from the public papers.

Q. How long is it since your acquaintance with the prisoner ceased?

A. About a year and a half since.

Q. Were you never present at his Political Lectures?

A. No: Since my acquaintance with Mr. Thelwall ceased, I have been out of town, and settled as a surgeon at Norwich.

The Clerk then proceeded to read extracts from the correspondence of the societies; the proceedings relative to the addresses to the Jacobin Club and the French Convention; the appointment of St. Andre, Roland and Barrère as honorary members, and the resolution for inserting their speeches upon the books; the letters relative to a convention to be held in Scotland; the proceedings of that convention, and the subsequent letters with respect to the delegates who were tried by the Court of Justiciary in Scotland. He then proceeded to read the resolutions of the Corresponding Society at the Globe Tavern, on the 20th of January, 1794; the letter from Martin to Margarot, giving an account of the proceedings of that day, and the letter from Thelwall to Citizen Jack Tellum, on the same subject.

The Rev. Mr. *Williams*, who was called to prove the handwriting of Mr. Thelwall, deposed that he knew the signature to be his, and believed that the whole letter was in his handwriting.

Cross-examined by Mr. Thelwall.

Q. Mr. Williams, how often have you seen me write?

A. Twice.

Q. How much have you seen me write at a time?

A. I have seen you sign your name,

Q. Upon what occasion?

A. You applied for a licence to marry one of my parishioners, and I then saw you sign it; and afterwards, when your marriage took place, I saw you sign the register.

Mr. *Thelwall.*—These were the only occasions upon which you saw me write? My Lord, I have no further questions to ask the witness.

James Davison, Printer, deposed, that he printed the resolutions at the Globe Tavern, from a copy given him by Thelwall, all, except the last page, which he received from a young man, calling himself a clerk of Martin. He was ordered by Thelwall to print two thousand copies of the re-

 solutions;

ſolutions; he afterwards printed to the amount of eight thouſand, of which he gave ſix thouſand to Hardy, and kept two thouſand to give to any perſons who ſhould aſk for them.

Croſs-examined by Mr. Erſkine.

He ſtated, that he was a delegate, and had ſeen Thelwall at the Committee of Delegates. He recollected an expreſſion of Mr. Thelwall's, who, upon an account being received from the Continent, that a quantity of cannon and ammunition had been taken, holding up a pen, which he had in his hand, ſaid, "This muſt be our cannon, and (pointing to the ink) this our ammunition."

He recollected upon another occaſion, that when it was reported that the Committee was threatened with police officers, Mr. Thelwall ſaid, "Submit yourſelves to the laws, and the laws will juſtify your conduct." He never heard him make uſe of any language diſreſpectful to the King or the Legiſlature. He remembered that when he printed the Reſolutions, he mentioned to Martin that he thought that they contained ſome hard words, but ſaid nothing on the ſubject to Thelwall.

The Clerk then proceeded to read the communications that took place between the Correſponding Society, the Society for Conſtitutional Information, and other Societies in different parts of the country, with reſpect to the plan of a Convention to be held in England. He then read a letter found on the perſon of the priſoner, without any addreſs, ſigned by John Jones of Merionethſhire, expreſſing a deſire that ſome of the papers of the Correſponding Society might be tranſlated into Welch for the information of the inhabitants of Wales.

The proceedings at Chalk Farm were read.

Mr. *Shaw*, one of the King's Meſſengers, produced the papers which he found at Mr. Thelwall's houſe after he was taken.

Mr. *Timms*, another Meſſenger, was again called, at the deſire of Mr. Thelwall, who ſaid he did not diſtinctly hear what he ſaid. In the courſe of his examination by Mr. Thelwall, Mr. Timms ſaid, that at the time he was taken there were ſeveral perſons in the houſe, and a great many about the door, and, therefore, he thought it proper to take him away in haſte, for fear of a reſcue, although he did not ſay he heard any thing of that ſort propoſed. That the papers he produced he took out of the pocket of Mr. Thelwall, and that he ſealed them up before they went before the Privy Council; that he took the priſoner away from his houſe before all his papers

papers were examined and ſealed up, and he had nothing to do with any papers but ſuch as he found in the priſoner's pocket; that the priſoner went away with him without the leaſt difficulty.

Some of the papers were then read; that which was found in the houſe, ſuppoſed to be relating to the meeting at Chalk Farm, was of the hand writing of Mr. Martin, and proved in the ſame way on the trial of Mr. Hardy; it was a draft of ſome Reſolutions, with blanks for the name of the place and the Chairman of the meeting, but the Reſolutions were never acted upon.

The next piece of evidence was a letter dated the 13th of February, 1794, in the hand-writing of the priſoner, giving an account of his political ſentiments, and of his opinion of the different parties in the Convention of France, and preferring the Mountain party under all the circumſtances; avowing himſelf an advocate for true Sans-culotte Liberty; taking notice of the Government of America, and declaring, amongſt other things, that they had rather too much veneration for property; too much religion, and too much law, &c.

Mr. *Gurney*, Counſel, was then examined to prove ſome correſpondenre with Mr. Thelwall, on the ſubject of his Political Lectures, and the advice of that learned gentleman to Mr. Thelwall at his requeſt. Mr. Gurney being ſhewn a note, purporting to be a note from him to the Priſoner, readily admitted it to be of his hand-writing. He ſaid that the note contained a confidential opinion he gave the priſoner. He ſent this opinion to Mr. Thelwall on the 2d of May laſt. He was at the Seſſions in that Court when his ſervant brought him a letter from Mr. Thelwall, which he had not now about him, but he believed he recollected the general tenor of it. In it Mr. Thelwall informed him that the Grand Jury, as he called them, but which he underſtood afterwards to be the Leet Jury, of the manor and liberty of the Savoy, were, at the deſire of Mr. Reeves, to attend his lecture that night; that he had not as uſual prepared a written lecture, but muſt deliver one extempore; he expreſſed a fear of miſrepreſentation, he thought he ſaid, from ſpies, but he was not ſure of that, and aſked him how he ſhould beſt guard himſelf againſt it. He went out of the Court into the parlour, and wrote the anſwer juſt now ſhewn to him; he wrote it in a very haſty manner, and therefore might not have expreſſed himſelf as fully as he could have wiſhed.

The ſubſtance of the note was to adviſe Mr. Thelwall to compliment the Jury on their late verdict in a caſe that had lately happened. To have two or three friends to take notes at

the lecture, to enable him, if necessary, to refute any misrepresentation. With regard to what he should say, he hardly knew what advice to give him, but to be cautious of intemperate expressions, and to avoid any harsh observations on the King, or the Monarchy and Aristocracy; that he might say what he pleased of Mr. Reeves, but to preserve calmness as well as he could, and if he found himself uttering any thing exceptionable, to take care to explain himself immediately, and to speak as slowly as he could; but he thought that a compliment to the Jury would not be amiss.

Mr. Gurney, on his examination by the Attorney General, said, he did not recollect that there was any thing in Mr. Thelwall's note to him, that led his attention to the King, Monarchy, or Aristocracy; but there was a speech said to have been delivered by Mr. Thelwall, for the publishing of which Eaton the Bookseller was prosecuted, which related to these topics, and therefore Mr. Gurney advised him as Counsel to avoid these topics in the Lecture. He had frequently heard Mr. Thelwall speak in public; he was a man liable in the warmth of speaking to be hurried away by his passion beyond the bounds of his cooler judgment, and therefore he thought it might not be improper to advise him to be as calm and temperate as he could. When he said this of him, he would add, that although he had heard Mr. Thelwall speak frequently in public, he never heard him utter any thing that appeared to him to be seditious.

Being asked by the Attorney General whether he was present at the meeting of the Three Tuns, in the Borough of Southwark, he answered he was, but that he did not attend the meeting of Chalk Farm, or any of the meetings of the Corresponding Society.

Being examined again by Mr. Erskine, he said, he never heard Mr. Thelwall say any thing in his opinion seditious, and that the reason he had for recommending caution to Mr. Thelwall, on delivering his Lecture, arose chiefly from the consideration of spies being likely to be in the room; and that if they were there they were likely enough to torture his expressions.

Examined again by the Attorney General. Mr. Gurney replied, that spies were, in his opinion, of all men the most likely to misrepresent what they heard. He had heard it reported, that Mr. Thelwall delivered some seditious sentiments, but he never heard them. He repeated also, that the advice he gave to Mr. Thelwall was a hasty production, and that if he had had an opportunity of considering more before he wrote it, he believed he should have advised him to avoid altogether

saying

saying any thing of the King, the Monarchy, or the Aristocracy.

George Lineham was then called; he gave an account of the proceedings of the London Corresponding Society; he said, as on the trial of Mr. Hardy, he became a Member of that Society in the latter end of the year 1793. He was present at the Meeting at Hackney, where Margarot and Gerald were chosen Delegates for the Scotch Convention. He then gave an account of the various proceedings of the different meetings of the Delegates; as have been already published in the other trials; he said, there was a motion at Division No. 8, for the printing of papers stating grievances, and for a list of those who had given evidence against the Patriots; but that was not carried. Mr. Thelwall was present at most, if not all of them.

On his Cross-examination he was asked by Mr. Erskine, whether he did not attend these Meetings for a double purpose—that of doing his duty as a Member of the Society and a Delegate, and that of informing against them. He said he had no reason to suppose at that time that he would be examined. Being asked why he thought so, as he himself afterwards communicated what he knew of these proceedings? He said he conceived it to be his duty as a Member of this Country?

Q. Did not you yourself make the proposition in one of those Meetings to watch the Parliament, and was reprimanded for it?

A. I never did. I was never reprimanded for any proposition to my knowledge. I brought two Sub-Delegates with me; I was told the question of the Sub-Delegates was not carried. He then said he remembered the same question on Mr. Hardy's Trial, about the motion for printing the papers and the names of those who had given evidence against the Patriots, and that he said at that time that the motion was opposed by Mr. Thelwall, because it might produce massacres; that he had that note in his book, but he did not go through them. Being asked why he did not, and what his reason was for not saying so on this trial, where the point bore on the character of the prisoner for his humanity?—He said he did not think it material. Mr. Erskine then said he would not ask him another question.

John Taylor was then called, but the Counsel for the Prisoner objected to his being examined, before it was proved that he had sustained the sentence of the law for an offence of which he had been found guilty.

The Record of the Court was then produced, by which it appeared that he was convicted of feloniously marrying another

ther woman, his former wife being then living, for which he had been sentenced to be imprisoned a fortnight, and to be fined one shilling. It then appeared that he had suffered the punishment of the law, and was therefore a competent witness.

He then proceeded to give his evidence. He said his wife on the trial appeared in his favour, and that the prosecution against him was instituted by a Member of the London Corresponding Society, Mr. Pearce, Clerk to Mr. Martin. That the Witness was present at the Meeting at the Globe Tavern, on the 20th of January, 1794. Mr. Thelwall was there, and commented upon these proceedings, and recommended the resolutions with great force. One motion he recollected perfectly, the substance of which was for the appointment of a Committee to watch the proceedings of Parliament, and if the Hessian troops should be landed, then to repel force, &c. The Resolutions were carried unanimously; there were more than 1000 persons present; Mr. Thelwall took the Chair after dinner; they were printed resolutions. He met Mr. Thelwall afterwards at the corner of the Old Bailey; he recommended the Witness to Mr. Hardy, from whom he got one of them. He was admitted a Member of the Society on the Monday following. He attended a lecture of Mr. Thelwall's on the 31st of January, 1794: he took notes on that occasion; the subject arose on some extracts out of a book written by Mr. Godwin. Mr. Thelwall made comments on that book from such extracts as referred to the Government of this country. The trial of Brillat was also commented upon. Mr. Thelwall then proceeded to take a view of the history of England, from the time of the Norman Conquest, downwards; concluding with a declaration that we were now governed by one tyrant, who had thieves and murderers at his nod. Mr. Thelwall then announced a Debating Society, which was to be opened under his direction. The Witness remembered that Mr. Thelwall alluded to a passage in the Play of Venice Preserved, which he said was to be performed at Covent-garden Theatre; a patriotic play he was surprised to find permitted to be performed by our present despots. Mr. Thelwall read a part of the trial scene, and the dialogue between Pierre and Jaffier; a proposal was made by Thelwall to go to the play, and he desired his friends to meet him there in the Pitt, where he would get upon one of the benches, and call aloud for the passage he had read, and if the play was heard in the usual way, he would then recommend this passage to be encored. He attended at the Theatre, and saw Mr. Thelwall there, with several of his friends, to the number of fifteen or twenty. The

play was performed with this paſſage, and encored by Mr. Thelwall, but was not carried. He attended a Lecture of Mr. Thelwall's on the fifth of February, 1794, at the Three Kings Tavern in the Minories, where he gave a ſtory of a Bantam Cock, but he did not recollect much of it. After the Lecture was over, a number of the company were invited by Mr. Thelwall to ſupper, where he gave them a toaſt, "God ſave the King, and if God does not damn him, he will damn nobody." There was ſome converſation in Mr. Thelwall's preſence, reſpecting a reſcue of ſome perſons convicted. He attended another of Mr. Thelwall's Lectures on the 14th of February, 1794, in which he ſaid, "He rejoiced to ſee tyranny and deſpotiſm were on the eve of diſſolution all over Europe; the undertaker was already at the door, and the coffin was already beſpoke; be ſteady and reſolute Fellow Citizens, and your end is accompliſhed."

He was at the Meeting of the London Correſponding Society, on the 17th of February; Mr. Brooks was in the Chair; a motion was made by Mr. Richter that new books be given to the Members, that their names might be entered, ſo that all the Members on any emergency might meet together; this motion was carried. Another member ſaid, he had to report that he had been informed the Habeas Corpus Act would be ſuſpended in the courſe of the preſent or the enſuing week; on this occaſion Mr. Richter reprobated the Conſtitution and the Laws of this Country, and the Adminiſtration thereof, and concluded with recommending to each Member to provide himſelf with arms and ammunition, in order that they might defend themſelves againſt whoever ſhould attack them, whether of this Country, Heſſians, Pruſſians or Hanoverians. A hand bill was ſaid to be diſtributed that night at the door of the Theatre, where his Majeſty went, but he did not know what that hand-bill was.

At the Meeting of the ſame Society on the 18th of February, another hand-bill was mentioned reſpecting the death of ſome perſons at the Hay-market Theatre, when his Majeſty appeared there. This hand-bill was read in Court. The ſubſtance of it went to queſtiou, whether their Majeſties did not know of that accidcnt that night, whether they knew of it when they appeared afterwards in public, and whether they did not mourn for the death of Louis the XVI. the enemy of this Country.

On the 28th of February, a ſelect party of the London Correſponding Society had a dinner in ridicule of the General Faſt, the company conſiſted of about twenty perſons: Mr. John Williams was preſent, and Eaton, the bookſeller, and the

Foreman

Foreman of his Jury: several songs were sung, and Mr. Thelwall sold his songs there, as well as at his Lecture Room. A bill was read under the title of "Tythes and Taxes," reprobating the Fast as the solemn mockery of Tyrants, impiously invoking the Divine aid to their inhuman cruelty on the human race. Mr. Thelwall delivered a Lecture that night in which he spoke on the superstition respecting the King's evil, and said that was not the only evil attending Kings.

At the Meeting of the 3d of March, Mr. Moore was in the Chair; there was a report made of a vote of approbation of Eaton's Jury, and it was proposed that a medal should be struck with the names of the Jury on one side, and a Bantam Cock on the other.

On the 17th of March a motion was made in a regular way to carry into effect the idea of this medal.

On the 18th a Petition was talked of to be presented to the King in favour of Mr. Margarot, which was afterwards dropt.

The following evening there was an account of an expected entry into the Society, and it was proposed they should arm themselves. Mr. Thelwall came into the room, and confirmed this report: he had in his hand a sword, and said he should not be the first to use it; but if any one attempted to disturb him, he should use that in his defence.

At the Meeting of the 21st of March, Mr. Thelwall in his Lecture took a view of the Debating Societies in general; he said they had lost their energy with the public, on the indisposition of a certain individual; now that individual was recovered, and the minds of the public from their lethargy, and they were opposed by those who did not wish to see the Constitution properly investigated, and he then called the attention of the company to the sentences of Margarot and Gerald, &c.

The witness stated, that upon this occasion Thelwall denied that it was treason or sedition for a man to say that he wished there were no King, and added that it would be better if there were none. He then mentioned that he was present at a meeting of the Corresponding Society, in which Jones recommended to them not to sit tamely silent, but to rouse themselves, and not only by words, but actions, assert their rights. He then went on to relate the proceedings at Chalk Farm; he said there might be upwards of two thousand persons present. He heard Thelwall propose that Lovatt should take the Chair; he afterwards congratulated the meeting on the determination of a question that had arisen, Whether the question should be put upon the Resolutions in a lump, or one by one? It had been decided that the question

should

ſhould be put upon them one by one. Thelwall ſaid, that to have adopted the contrary practice, would have appeared like ſmuggling the queſtion, and have too much reſembled the mode of proceeding of a certain Houſe; he added, that he knew there were ſpies preſent, two of whom he named. A paper was then ſhewn to the witneſs, which he ſaid was the ſame that he had received after a meeting at the Diviſion-room, No. 3, New Compton-ſtreet. The paper which was produced on the former trials contained a ſhort exhortation, in caſe either of a French or Heſſian invaſion, to provide themſelves with arms, and to learn the uſe of them. The paper was given him by Hodſon. He next ſtated, that he attended a Lecture of Thelwall, on the 16th April, in which he adverted to the Reſolutions that had been paſſed at Chalk-farm, and diſcourſed on the ſubject of the armed aſſociation: he concluded, that all men ought to arm, and aſked how Miniſters could be ſure, that thoſe into whoſe hands they were now putting arms, would continue to be their friends two or three years hence.

On the 22d of April the witneſs was preſent at a meeting of the twenty-ninth Diviſion of the Correſponding Society, at Robins' Coffee-houſe, where Smith ſaid, "that Miniſters had in view to paſs a Convention Bill in this country; and that, if the Society did not purſue their plan of holding a Convention with avidity, they would certainly be prevented;" when a member replied—"That will ſooner bring our point to iſſue; and then the word will be *Arms, arms.*"

He attended a Lecture on the 23d April, at which Thelwall ſaid it was time to ſpeak out, now that Miniſters were preparing an inſtrument to ſtop men's mouths; he ſaid alſo, that the reaſon why ſome were ſo bold was, becauſe others were ſo tame, and urged thoſe who were preſent, by every argument, to act like men. He concluded with reading from his notes of the 12th May, after Hardy had been taken up, that at a meeting of the Correſponding Society, the Sub-Secretary, Pearce, ſaid, "That it was neceſſary to take ſome effectual ſteps to counteract ſuch arbitrary proceedings, and moved that ſome members ſhould be added to the out-ſtanding, in order to come to ſome reſolution for this purpoſe." Pearce alſo ſaid, holding the book in his hand, "We have got this book now, God knows what has become of the other; Dundas and the Lords of the Treaſury have now got hold of it."

When the Counſel for the Crown had finiſhed the examination of this Witneſs, the Counſel for the Priſoner, in conſequence of the maſs of evidence which he had brought forward, and the ſpace he had occupied, as there would not be

time to go through the croſs-examination that night, profeſſed themſelves deſirous of an adjournment, which would beſides afford them an opportunity to arrange their notes: but Chief Juſtice Eyre objecting that the Court were not prepared to adjourn, as their carriages would not be ready, Mr. Gibbs proceeded to the croſs-examination.

Q. What is your name?

A. John Taylor.

Q. What was your father's name?

A. John Taylor.

Q. Did you never go by any other name?

A. No.

Q. At the time of your ſecond marriage, was it not neceſſary to make an affidavit that you were not married, in order to procure a licence?

Mr. *Law.*—Mr. Gibbs, you cannot put a queſtion to a Witneſs relative to a paper which is not in Court.

The *Chief Juſtice.*—The paper muſt certainly be produced before it can be made a ſubject of croſs-examination.

Q. At the time of your ſecond marriage, did you not repreſent yourſelf as a widower or a batchelor?

A. Yes.

Q. Are theſe the minutes from which you read the evidence you have now given?

A. Yes.

Q. Did you always make theſe minutes immediately after the meetings had taken place, and while the proceedings were freſh in your memory?

A. Yes: I generally made them either that night, or next morning; I firſt made a ſketch of the minutes, and then copied them out fair. The minutes from which I have read, are the exact copies of the original minutes.

Q. Then the minutes from which you have read are not original. Where are the original minutes?

A. Some of them I have got at home.

Q. Can you ſwear that you always copied thoſe minutes the day after, and that you did not poſtpone it till another day.

A. I cannot ſwear. I ſometimes may have made ſcratches, but the minutes from which I read are in ſenſe and ſubſtance the ſame with the firſt rough ſketch.

Q. Are they the ſame in words?

A. They are.

Q. Are the minutes which you firſt made in exiſtence?

A. Some of them are now deſtroyed.

Mr.

Mr. *Gibbs*.—Does your Lordſhip think that the Witneſs ought to be allowed to ſpeak from mere copies of original minutes?

Mr. *Law*.—Will your Lordſhip allow me to put another queſtion to the Witneſs. Did you make thoſe copies while the proceedings were ſtill freſh in your recollection?

A. Certainly I did.

Mr. *Erſkine* ſaid, that it appeared that the Witneſs, after having exhauſted his memory, ſat down to make a freſh record. Mr. Law, aware of this objection, had endeavoured to remove it by his re-examination; but was it probable, was it conſiſtent with human nature, as the Witneſs had ſtated, that the copy which he made of his minutes ſhould be, in ſenſe, ſubſtance, and words, the ſame with the firſt ſketch?—It was a rule never to admit ſecondary evidence, when the primary could be had. Such evidence as the Witneſs had now given would not be admiſſible, even in a civil caſe. Why ſhould the Witneſs not be obliged to produce his original minutes?

Mr. *Gibbs* ſupported the objection.

The *Chief Juſtice*—I have no doubt on the queſtion: no memorandum can poſſibly be made at the very moment a tranſaction takes place; the memorandums themſelves are not evidence, they ſerve only to refreſh the memory of the Witneſs, ſanctioned by his oath. In the preſent inſtance, the Witneſs ſet down what firſt occurred to him upon ſlips of paper; he then copied them out fairly. The firſt ſlips are not to be conſidered as the minutes, but only the means which he took to make his minutes more perfect. The Chief Juſtice then ſtated, that as the time was now come for the Court to adjourn, the Counſel for the Priſoner might poſtpone their further croſs-examination till to-morrow.

THIRD DAY.

WEDNESDAY, DECEMBER 3, 1794.

John Taylor, the witneſs who had given evidence for the Crown, was croſs-examined by Mr. Gibbs.

Q. Where do you live, Sir?

A. In South-ſtreet, near High-ſtreet, Mary-le-bonne.

Q. How long have you lived there?

A. A few weeks before I was taken up.

Q. What buſineſs are you of?

A. Not any.

Q. What are you?

A. I am of no profession at all: I have no business; I have not been in business since the year 1785.

Q. You have a private fortune, I suppose?

A. I have a small pittance which I have from Mrs. Taylor.

Q. Where did you live before?

A. In Fleet-street.

Q. With whom pray?

A. I lodged with Mr. Willis.

Q. Did you ever live with Mr. Phillips, in Cambridge-street?

A. No, I never did; I only visited him with a friend.

Q. Have you ever followed any business, and if you have, pray what was it?

A. I was a watch-maker in Devonshire-street.

Q. Where did you live before you lived in Fleet-street?

A. I lived at Bagnigge Wells.

Q. How long did you live there?

A. I lived there twelve months.

Q. Where did you live before then?

A. I lived at Northampton.

Q. Who did you live with there?

A. With Mr. Bulkley, a shoe-maker.

Q. In what business was you there?

A. I was no business there.

Q. When did you go there?

A. I went there in the year 1791.

Q. Where did you live before that time?

A. I lived before that time in the Minories.

Q. With whom?

A. With Mr. Earls, a confectioner.

Q. Do you know Mr. Stevenson?

A. Yes, I do.

Q. How long have you known him?

A. I have known him for ten or twelve years.

Q. Where does he live now?

A. I do not know.

Q. How came you to know him?

A. I became acquainted with him at a Coffee-house, in Covent-Garden.

Q. Where did you live besides the places you have mentioned, Sir?

A. I lived with a friend in Tottenham-court, in Hamilton-street; I have lived too at Putney Common.

Q. Pray when did you see Mr. Stevenson last?

A. I cannot

A. I cannot recollect when I saw him last; I believe that in August last I accidentally met him.

Chief Justice to the witness—Why don't you keep up your voice?

A. I do, my Lord.

Judge. No; you do not, Sir.

Mr. *Gibbs.* Q. Pray, Mr. Taylor, when was you employed to attend at these meetings first?

A. The first time of my going was on the 20th of January, at the Globe Tavern; a great many people were there—that was last January.

Q. You went by employment there, I take it, Sir?

A. No, Sir, a friend of mine came to me, and asked me if I chused to go; I said yes, and went.

Q. From that time you was a regular informer, were you not, Sir?

A. No, Sir, I was bound to go as I promised.

Q. You went as an informer, Sir?

A. No, Sir.

Q. Did you not go, to inform, Sir? answer that question, aye or no, Sir?

A. I did not go entirely as a friend.

Q. By that you mean to convey you did go partly as a friend?

A. I do not know how to answer the question of my going as a friend.

Q. You can answer it, Sir, if you chuse. The question is this: you say you did not go as an informer, nor entirely as a friend? Did you go partly as a friend, and partly as an informer?

A. I went to make observations on the conduct of the Corresponding Society without any animosity.

Q. Do you speak of the first time you went, Sir?

A. I went at first perfectly unknowing what sort of society I was to meet; when I came, the novelty of it struck me, and I afterwards became a member.

Q. What made you become a member: did you become a member without intending to become an informer?

A. I certainly had some intention of informing.

Q. I do not ask you to whom you gave information; you gave it to somebody, and so you went on from time to time, Sir?

A. Yes, Sir.

Q. Well, I have done with you.—But pray have you brought your original notes with you?

A. No, I have not, Sir.

Mr.

Mr. *Law*—You may ſubpœna him to give evidence for your client, if you pleaſe.

Mr. *Gibbs*—I know I may do what I pleaſe with him in that reſpect, but I wanted the fact, that is all.

Chief Juſtice—The queſtion is put, and an anſwer given to it, and there is no room for any obſervations on either ſide.

John Edwards examined.

Said he was a member of the London Correſponding Society. He was a delegate for about ſix weeks; the delegates met at No. 2, Beaufort-buildings, Mr. John Thelwall's houſe, and he ſaid there was a Committee of Correſpondence there. The delegates were, ſix of the London Correſponding Society, and ſix of the Society for Conſtitutional Information. He knew of nothing but of the proceedings of the general Committee of Delegates. There was, as he underſtood, a Secret Committee, but they did not meet there. They met, he believed, ſometimes at their own houſes, and they met in October or November, 1793. They conſiſted of Mr. Martin, Mr. Baxter, Mr. Hodſon, Mr. Thelwall, and, he thought, Mr. Moore. That committee was diſſolved about a week after its formation, becauſe they ſuſpected Mr. Lineham of informing againſt them. Being choſen, the committee were to have powers given them to chuſe another committee, but the name of it he did not know: nor did he know whether it was ever choſen. The name was to be a ſecret to them if choſen. He knew Mr. Hardy, and had ſeen Franklowe twice. He heard there was a meeting at Lambeth, called the Lambeth Loyal Aſſociation: he only heard it mentioned they were to learn the uſe of the muſket. He did not know who were the members of the ſociety at Lambeth, ſome of them were, he believed, members of the London Correſponding Society, but he did not know any of them, except Franklowe. He applied himſelf to Hardy, in conſequence of what he had heard, to know where he could procure pikes, and he recommended him a perſon to make ſome blades of pikes, and gave him a direction at Sheffield for that purpoſe. He ſpoke of this himſelf to two or three perſons. Nobody deſired him to apply to Hardy for the pikes; he went of his own accord; he ſent to Spence and Baxter, and told them, that if any perſon wanted pikes, they were to call at his father's houſe for them; the witneſs had a pike himſelf; he applied for it to Hardy, being Secretary to the London Correſponding Society,

ciety, and likely to know ſome perſons at Sheffield, but he could not tell the name Mr. Hardy gave him.

He ſaid, he remembered the diviſion, No. 22, meeting at the Parrot, in Green-Arbour-court, at the latter end of February, or the beginning of March; and the converſation he had with Mr. Hardy, was ſome time in March. The witneſs propoſed a meeting himſelf to be held there, and he ſaid, that any perſon chuſing a pike, might have it for a ſhilling; after he mentioned this, ſeveral members he ſpoke to, ſaid they would come to this meeting if it was held, for there were many of the members apprehenſive of an illegal diſperſion of the ſociety, and they thought proper to get arms. He had a pike in caſe of an illegal diſperſion of the ſociety; it was juſt as the Heſſian troops were landing in Great Britain, without the conſent of Parliament; he could not recollect that he ever heard any thing about arms in the Society.

He ſaid, he was at the Globe Tavern on the 20th of January; Mr. Martin was in the chair; there were ſeveral perſons in the gallery, and he rather thought Mr. Thelwall was there. He remembered a paper about arms, read in the ſociety at the Three Tuns Tavern, on Snow-hill; and he remembered ſomething ſaid in the Committee of Delegates, reſpecting the price of a medal to be paid for by the ſociety. He was at a meeting at Chalk Farm, and Mr. Thelwall was there. He was at Mr. Thelwall's on the 13th of May, and a Committee of Delegates was called, but there was no buſineſs done while he was there, and this was after Mr. Hardy was apprehended.

On his croſs-examination by Mr. Erſkine, he ſaid he recollected being examined by him before; that he was a ſilverſmith, in buſineſs with his father, in Jewin-ſtreet; that he was a member of the ſociety till he was apprehended; the object of the ſociety, from what he heard and ſaw, was a Parliamentary Reform, by which he meant a Reform in the Commons Houſe of Parliament. He was at many of the meetings, and never found that any of them had changed their objects. He never heard of their having any ſuch object as that of rebellion againſt the King, or reſiſtance to the Laws. He thought it would have been impoſſible for any ſuch thing to have been without his knowing of it. He made a pike for himſelf. He never collected from any of the members of the ſociety that they meant any reſiſtance to the King's perſon, power, or authority; he did not think that any one had ſuch an object. He ſaw the priſoner there, and he always profeſſed himſelf a friend to the conſtitution, as eſtabliſh-

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ed at the revolution in 1688. He never heard him express himself contemptuously of the King's authority.

On his examination by Mr. Anstruther, for the Crown, again, he said, he understood that the foreign troops might come into the interior of the country, and therefore he armed himself.

And being again examined by Mr. Erskine, he said there was nothing in his mind, nor any of the society, that should induce them to be employed against the authority of Parliament, as now composed of King, Lords, and Commons. Here the mock play-bill alluded to in evidence already was read. It began with, "On Tuesday next will be performed the Farce of the Guillotine," &c.—it has appeared already often in print.

Mr. *Lauzun* produced a paper proved to have been admitted by Mr. Thelwall, to be of his composing; the title of it is King Chanticleer, &c. supposed to be part of a speech delivered by Mr. Thelwall, at a Debating Society, and published afterwards by Eaton. This paper was afterwards read.

Mr. *Lauzun* produced also a medal, such as has been already mentioned, relative to the Jury who acquitted Mr. Eaton for publishing that speech.

Samuel Williams, Gun-Engraver, said he was a member of the London Corresponding Society; he was admitted about the middle of the year 1793. He knew Mr. Franklowe to be a member: he knew Mr. Thelwall to be a member also; he saw him at the meeting at the Hackney road. He knew a society of the name of the Loyal Lambeth Association; he furnished eleven of them with arms; Mr. Hardy told him that Mr. Franklowe was going to raise an Association; he saw Mr. Franklowe afterwards; there were three or four persons with him; he asked the witness the price of some arms he had, he told him twenty-seven shillings; he said it was too much for the society to give, but afterwards they consented to have them at that price. The society first exercised at Franklowe's house, in Chiney Walk, Lambeth, and afterwards in a Grove near the Borough, they exercised for two or three months; part of them staid there, and part of them went to Mr. Spence's; they exercised at Mr. Spence's from 8 to 10, and they exercised at the same time at Franklowe's. At Spence's they were, he thought, in a one pair of stairs room, a very small one; he thought there was a curtain; if there was it was drawn, and he did not think they were authorised by Government for this. He had reason to think that their object was a Parliamentary Reform; from what he heard

heard from them, he thought they intended to endeavour to get it by petition; and from what he could collect, if they could not get it by any other means, they would endeavour to get it by force of arms: they were to be 60 in number, for whom he was to furnish arms. The witness himself exercised them at Spence's.

On his cross-examination by Mr. Erskine, he said he was a gun-engraver in the Tower; that he had reason to think the object of the Loyal Lambeth Association was Parliamentary Reform, and if they could not get it by petition, then to get it by force of arms. Being asked who he heard say so? He said there were upwards of twenty different people, he did not know their names; this was at the second meeting, and he exercised them after this. Being asked how he came to do so; how he came to exercise people who appeared to him to be in the act of preparing themselves for rebellion? He said he could not get off from it; he was not paid for what he had done, and he could not afford to lose his money; he therefore went on exercising these men after he had known their intention.

Mr. *Erskine*—Very well, Sir, you are a very good subject.

On his cross-examination again by the Counsel for the Crown, he said he was taken up to be prosecuted for what he did.

Mr. *Erskine*—You kept all this to yourself, and had no idea of informing any body until you thought yourself in danger?

A. Yes.

Q. Try your memory now, and tell us, if you can, the name of any one man from whom you heard this idea of force conveyed?

A. No, I cannot.

Mr. *Erskine*—Then I will not ask you another question.

Mr. *Timms*, King's Messenger, said, I had a conversation with Mr. Thelwall, after he was apprehended, and after he had been before the Privy Council. I had some conversation with Mr. Thelwall while he was at my house; I heard him make use of some unguarded expressions. On the 15th of May he said, that had he been fourteen days longer at liberty, it would not have been an easy matter to have apprehended him; that he should have had so many of his friends about him that he would not have been easily apprehended.

Mr. *Erskine*—How soon was this after he was apprehended?

A. It was ſome time after he was before the Privy Council, and after I had conducted him to my houſe.

Q. He knew you to be a meſſenger, and there had been no charge againſt him for refuſing to go with you before the Privy Council?

A. I did not hear his examinntion before the Privy Council.

Q. There was nobody elſe preſent when this converſation took place?

A. Nobody.

Q. You thought it an odd thing then, did not you, that a man ſhould ſay this to a meſſenger, in whoſe cuſtody he was?

A. I did.

Mr. *Erſkine.*—I dare ſay you did, and ſo I do now.

Mr. *Thelwall.*—Recollect yourſelf, Mr. Timms: I want to know whether within a few hours after I was in your cuſtody, that you were talking rather in general terms of the politics of the times, and that I ſaid to you, in the preſent circumſtances I think it will be proper for us to talk of any thing but politics; I have no doubt we ſhall have ſubjects enough to talk upon, and paſs our time pleaſantly together, but politics are improper for us to diſcourſe upon?

A. In ſome parts you are right, in others you are not. My Lord, when Mr. Thelwall tells me he ſaid that politics were improper for our converſation, I muſt deny it, for that was an obſervation of my own to him; I told him that I could give him books to entertain him, and that I deſired he ſhould not talk on politics to me, for if he did I ſhould be obliged to give an account to the Privy Council of what he ſaid, and appear againſt him.

Mr. *Thelwall.*—The firſt part of your anſwer was, that in part the ſtatement I made was true, in others not ſo; and yet, with the ſame breath, you connect the whole, and ſay the caution came from you to me. Inform the Court and Jury whether the firſt or the laſt part of your anſwer comes the neareſt to the truth.

The *Chief Juſtice.*—That is no queſtion: you may ſift the witneſs as much as you pleaſe; but in doing ſo, you muſt put queſtions to him.

Mr. *Thelwall.*—You ſay that whatever I ſhould utter before you would come againſt me: you made uſe of the expreſſion, you ſaid?

A. Yes, I made uſe of that expreſſion.

Mr. *Thelwall.*—You ſwear that?

A. I poſitively do.

Mr.

Mr. *Thelwall.*—Well, Mr. Timms, I have nothing more to ſay to you.

Here the evidence for the Crown cloſed.

Mr. *Erſkine.*—My Lords, the caſe on the part of the Crown has cloſed ſooner than I expected. Will your Lordſhip allow us to converſe for a few minutes, and then I ſhall be ready to addreſs the Court for the defendant.

PRISONER'S DEFENCE.

Mr. *Erſkine.*—I have the honour to addreſs you as Counſel for the unfortunate gentleman at the bar, under circumſtances more new and ſingular, and more embarraſſing in my judgment, than any that have yet been tried. In the firſt place my embarraſſment ariſes from my being called upon to addreſs you on a ſudden, for the proſecutors have cloſed their caſe much ſooner than I had reaſon to apprehend they would; for although nothing is further from my thought than any idea of complaining of the conduct of my learned friends who have the management of this proſecution, they have conducted themſelves upon this, as they have upon former trials, according to their diſcretion, which I cannot blame, and, I am happy to ſay, their conduct is fair and honourable: and when I conſider the ſituation in which they have left their caſe, it would ill become me to ſay any thing of embarraſſment, for I ſhall have much leſs to anſwer, than by the opening of the learned Serjeant I was warned to prepare for; and as I know the candour and the honour of that learned gentleman, as well as his judgment, I am aſſured that parts of the reply will be abandoned, which might tally with the opening, but which have not been ſupported by the evidence in the cauſe; therefore, gentlemen, on that account, I have nothing to complain of. But my embarraſſment ariſes out of another ſource. I come here poſſeſſing nothing, and pretending to poſſeſs nothing but a common plain underſtanding; and with that deſcription, I have a right to complain of the ſeverity of my duty, the more eſpecially when I reflect on what I have heard the learned Judge who preſides at this trial ſay, that the mighty maſs of matter which was to be examined, weighed upon his mind, and bore it down, ſo that he was almoſt afraid of ſinking, and be unable even to riſe from under it; and this, he ſaid, became more tremendous to him on the ſecond trial than on the firſt; that the multiplicity of the evidence, tended rather to increaſe, than diminiſh the difficulty. If that was his Lordſhip's ſituation, what am I to think of mine! I had another embarraſſment, which indeed is diminiſhed in

part by the presence of the Attorney General, whom I am happy to see giving his attendance on the trial in this stage, because I shall be under the necessity of appealing to him, as well as to the learned Serjeant, to whom the reply in this cause devolves, on some points insisted on in the course of these prosecutions. The third cause of my embarrassment is, that I have to answer the arguments of a learned gentleman, who is sometimes, but not always, in the cause on the part of the prosecution, and who has insisted, in opening this case, on points which the Attorney General has given up, by assenting to the acquittal of four gentlemen previous to the commencement of the present trial; but upon that my learned friend will, I think, when he comes to his reply, be more embarrassed than us all if he should think fit to pursue the whole chain of his opening.—Let us see where it is we are at this moment in this prosecution. Mr. Hardy is acquitted, and yet the King's Serjeant tells five or six of you I think, that after you have acquitted him, you must travel over the same tedious journey again; for that still this cause must be proceeded upon.—Nay, what is more, after Mr. Tooke is acquitted; after Mr. Joyce is acquitted; after Mr. Bonney is acquitted; after Mr. Kydd is acquitted; after Mr. Holcroft is acquitted; after six gentlemen charged in one conspiracy are acquitted; still you are to be called upon to go through the whole evidence in the case of this gentleman; who, if he be guilty at all of the crime imputed to him upon this indictment, he must be guilty of a conspiracy with them. The four last gentlemen who appeared at this bar, were acquitted by the consent of the Crown, as no evidence was offered against them; I find no fault with that; it was honourable on the part of the officers for the Crown; these gentlemen were discharged in the rightful season; the officers of the Crown upon that occasion, as they have on all others, conducted themselves nobly, and there is nothing new in my approbation of their conduct. But when I see this cause renewed with additional energy, the same accusation, with the same, no, with less and weaker proof again insisted upon, and when half the same Jury are called upon again to shed blood, my head turns, and my stomach nauseates at the scene; they ask you with confidence to convict the prisoner at the bar, and that with a degree of confidence, neither the source nor the end of which can I discover; my mind trembles to think on what may possibly be the event of all this. A learned friend of mine found some time since he had to struggle with a monstrous prejudice upon these trials; not from you, nor from the Court; for there can be here no prejudice unfavourable to innocence, but to prejudice out of this place, circulated after the trial of Mr. Tooke; not that he nor

I should

I ſhould regard it as far as relates to us, for ſquibs againſt profeſſional men are not worth regarding, but if there are any in circulation againſt the priſoner at the bar, the conſequence might be dreadful, if I had not to rely on your firmneſs and your juſtice.—Some ſcandalous inhuman wretch has ſaid, that it ought to be lawful, for it is fit, that every man ſhould help himſelf, and take vengeance on whom the Jury chuſe to acquit. I ſhall not ſhew you this, nor offer it in evidence, unleſs I ſhall be able to diſcover the author; all I can ſay of it is, it is a dangerous thing while it remains unnoticed, but when noticed, a new ſecurity ariſes for the protection of the accuſed, and for the adminiſtration of juſtice; for, on the bare mention of ſuch a circumſtance, every honourable emotion characteriſtic of an Engliſh Jury, at once ariſes in your boſoms; every guard, every check, every honeſt principle, ariſes and ſtands upon the watch to protect juſtice. When we take notice of the hiſtory of all the ages of the world, and make a general ſurvey of the affairs of mankind, we find inſtances beyond number, where the kindneſs of providence has turned even the moſt infamous acts of vice to the protection of virtue; for various and hidden to the eye of man, are the ways of providence; and the beſt of purpoſes are often the effect of the worſt of deeds; and the aſſaſſin has often given ſecurity to the man he would murder, and gained applauſe on the man he would defame. Having ſaid this, I mean to apply myſelf to the charge now before us, and the evidence by which it is ſupported, or rather attempted to be ſupported; and I beg the learned Serjeant to be very particular as to what I ſhall ſay, becauſe I expect his anſwer to it. You are told you are not to relinquiſh your underſtandings. You are told you are to adminiſter juſtice in mercy, but that you are to adminiſter juſtice with mercy. I aſk no more. I do not aſk you, for where it is due I know you will give it; and where it is not due it ought not to be given. I call therefore for the exerciſe of your juſtice; I ſay, as advocate for the priſoner at the bar, if he is guilty of the High Treaſon with which he is charged, convict him: for it is the principle of the law by which we are all bound, that he ſhould be convicted. But on the other hand, if there is no pretence or colour for the charge, I ſay, as the priſoner's advocate, you are bound by the ſame law, and by a higher, by the law of God, to find him not guilty, and here I beg leave to ſay, I am taking no notice whatever of mercy in the common underſtanding of mankind.

Gentlemen, throughout the whole courſe of the law of England, the preciſion with which it defines crimes, is the

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moſt ſtriking feature; and no man underſtands the Conſtitution of England, who does not know that to be the leading maxim of our criminal law. This therefore leads us to one reflection which we can never quit. However you may differ from a man in his ſentiments—however fooliſhly you think he may have acted—however you may think as moral men he ought to be checked—any farther if his conduct ſhould be manifeſtly criminal, you cannot by the law of England touch a hair of his head, unleſs the evidence given on his trial proved the charge exactly as it is ſtated in the indictment. To illuſtrate this, I ſuppoſe for inſtance, that I was indicted for ſtealing a cow, and it turns out on the evidence that I have ſtolen a horſe, I am entitled to be acquitted, and to tell my proſecutor you have miſtaken your road, you muſt begin again if you want to proſecute me with effect. Now let us ſee what the law is in this caſe before us. The indictment muſt charge the priſoner with having compaſſed and imagined the King's death. The caption of the indictment, as my learned friend very ably and very juſtly obſerved on a former trial, is the authority of the Court to inquire into the charge, and this muſt be ſtated in the indictment.——Lord Hale ſays, that unleſs this be ſtated, the indictment is bad, and this proceeds upon ſound reaſoning, for it would be a ſtrange thing indeed, if in the law which provides more anxiouſly for the ſecurity of the ſubject than for any thing elſe, the charge was not diſtinct and certain, and meaning one thing in the charge, and requiring ſomething leſs in proof; and it is the firſt time I have heard it maintained, that although the charge muſt be clear and diſtinct, yet that the traiterous purpoſe need not be as clearly and diſtinctly proved as the charge itſelf is on the record [Here Mr. Serjeant Adair ſeeming to aſſent to Mr. Erſkine's doctrine he proceeded.] I am glad to find I had miſunderſtood the learned Serjeant; I have now his authority for this part of my own argument. The next thing for us is to attend to what Lord Hale ſays upon this very ſubject. He ſays that compaſſing and imagining the death of the King is an internal act of the mind, inviſible to us of itſelf, and therefore muſt be plainly manifeſted by ſome external act. The indictment charges, that the priſoner maliciouſly and traiterouſly did conſpire to raiſe and levy war againſt the King, and to ſubvert the rule and government of the kingdom, and to depoſe the King and to bring him to death; that is the charge, and it is neceſſary the record ſhould charge that to be the compaſſing and imagining his death; and then muſt follow a ſtatement that they did, and ſtate acts they did. In this charge the proſecutors have

have ſtated that the priſoner, together with twelve others, who I have in part named already, did conſpire for this purpoſe; it is ſtated that they conſpired and conſulted among themſelves, to cauſe and procure a Convention to meet within this kingdom. If it had ſtopped there, there would have been no crime, for the intent might have been innocent; and although all the conſequences of depoſing the King might have followed, which the Counſel for the Crown choſe to predict, yet the Defendant muſt have been acquitted, for they are not indicted for what might have happened, or what may happen, but what they have done; and I have his Lordſhip's authority for ſaying, that this caſe is diſentangled from all queſtion of law; that it is a plain matter of fact, for you, gentlemen, to decide whether the priſoner did conſpire with the other perſons charged, to aſſemble this Convention, with intent to depoſe the King. We are not then come here upon the law, but upon the fact.

Here Mr. Erſkine went over all the charges in the indictment, and the overt-acts ſaid to be a proof of them, and contended moſt ſtrongly that none of them amounted to any thing like treaſon. He ſaid that if they had compoſed hundreds of libels, they would in all amount to nothing with regard to the preſent charge.

With regard, continued he, to a conſpiracy of levying war againſt the King, that is a good overt-act of High Treaſon, but that muſt be againſt his perſon, not againſt his authority in the execution of the law; and by the authority of Sir John Frend's caſe, it appears there may be a war levied without a deſign againſt the perſon of the King. A levying of war, we are told from the higheſt authority, may be High Treaſon, yet a conſpiracy to do ſo is not; but if the purpoſe be the deſtruction or the depoſition of the King, then it will be High Treaſon. But before I conclude that the priſoner has done this, give me a little fact, to ſhew that the priſoner did conſpire to deſtroy or depoſe the King; but before I proceed any further, I will give you a fact with a witneſs—I mean part of the ſpeech of the learned Serjeant, in his opening of this caſe; and I hope his reply, as I ſaid before, will not be at variance with the opening. He ſaid that the conſpiracy was not to aim to give arms to the Convention itſelf, but that they were to act by the force of others, and that was the uſe he ſeemed to make of the pikes. Now I want to know what evidence there is of this. He ſays the avowed object was a Parliamentary Reform in the Houſe of Commons, but Treaſon lurks behind it; and upon this he ſays, that a verdict to your ſatisfaction will be to the ſatisfaction of the country. I ſay the

the ſame thing; for you are, if I may uſe the expreſſion, the Houſe of Commons of the Judicial Syſtem of our Country.

Gentlemen, whether the priſoner be a haſty or a raſh man, whether his diſpoſition be for miſchief or not, is matter of no queſtion before you, for that is not the charge againſt him, and upon ſuch a topic, I ſhould not think it neceſſary to waſte my breath. If he is a traitor in his heart, that is nothing unleſs he is a traitor as here charged:—do not ſuppoſe that I am inſinuating he is a traitor of any kind, on the contrary, I believe his intentions to be pure, but I am inſiſting on it as a matter of right, that he muſt be acquitted if he was a traitor, unleſs he was proved to be ſuch an one as the indictment charges him to be.

The charge upon this indictment is, that a conſpiracy was formed for holding this Convention, in order to depoſe the King. Now how is this proved? By dragging in all that can be collected; and in order to do that, they read a great number of papers, and every one of them ſhews that they have no reference whatever to this gentleman at the bar; they may mean ſomething with regard to Mr. Hardy or Mr. Tooke, but they have no application to the priſoner, for he was never preſent at any of the meetings, where all the Addreſſes and other things you have heard ſo much of until the month of October, 1793, all the concoction of this treaſon was made before he is ſtated to have known any thing about it; and are you to find a verdict againſt him upon the ground that he knew leſs of the circumſtances than the very men who are acquitted? I do not mean to ſay you are bound to find a verdict as the other Jury have done. You are bound to do nothing but juſtice, and it is to that juſtice I appeal.

Mr. Erſkine then proceeded to examine the evidence, and obſerved, there was not one man out of all theſe Societies, except the two ſpies, who did not poſitively prove that the deſign of the Societies was for obtaining a Parliamentary Reform, and he was ſure that would have been the univerſal teſtimony of them all, if every member had been examined; the object of Mr. Thelwall was, a friend to Univerſal Suffrage and Annual Parliaments, and this he had taken from others, and particularly that of the Duke of Richmond, a nobleman of the higheſt rank, and deriving titles and emoluments from a royal family, a branch of which he was; and therefore, without giving any opinion on that plan, he might ſay it came from an authority likely enough to be admired by men of inferior rank, for his Grace's name was ſecurity enough againſt any attempt of ſubverting Government.

He then proceeded to take notice of the proceedings of the Scotch Convention, from the time it met down to the period of its dispersion by the Provost and other Officers, in Edinburgh, in none of which did any disposition of violence appear in the Convention; that they only waited until they were dispersed by authority, because if they had dispersed without it, they would have given up what they conceived to be their right, that of meeting to deliberate on a Plan for Parliamentary Reform, and whether they were right or wrong in the Law upon that occasion, was a question not now to be discussed upon this trial. He ridiculed the idea of dwelling upon the forms they used, as said to be proving their intentions to depose the King; but above all, with regard to Mr. Thelwall, there could be nothing criminal in that Convention, for all that he was proved to have done, was only to concur in the instructions to be given to the members, which were, in substance, only to pursue a plan in support of a Reform in the House of Commons, according to the true spirit of the Constitution, as settled at the Revolution in 1688. And all that was done was published in all the newspapers, and that too at a time when the Legislature were suspending the Habeas Corpus Act, and when Government were like to be watchful. To suppose that men so engaged, under such circumstances, would publish their intentions when they meant to depose the King, was not within the compass of the belief of any rational being.

With regard to the second Convention, which was intended to have met in England, if any guilt attached to the person who projected it, that was the guilt of Mr. Hardy, for the thought was originally his, and Mr. Thelwall had no more share in it than any of the other gentlemen, against whom the Attorney General did not think fit to call any evidence, and who, therefore, stood acquitted by the acknowledgment of their innocence on the part of the Crown itself. But, continued Mr. Erskine, much stress has been laid on the Lectures which Mr. Thelwall gave, and also on the share he had in various correspondences from different persons; in the last of which, by the bye, the gentlemen who have been acquitted, are at least as much implicated as Mr. Thelwall can be. Gentlemen, this contest is a very unequal one; this gentleman is defending himself against the combiued powers of a great bar. I do not mean to insinuate that there is any dishonourable combination; but the abilities concentered against him are great. There is also employed against him a powerful purse—the purse of the public. I am not charging any person with the irregular disbursements of its contents, but the purse we know is a great one; and his defence is left to us, who claim no merit

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for discharging, as well as we can, our duty to our client.—Now, with regard to these Lectures, they were delivered to support an aged mother, a partner of his heart, and an offspring whom Providence gave into his care. How is he to keep witnesses in town from day to day, and from week to week? How, in the name of God, is he to make up the materials for his defence in such a mighty cause as this! If he was to defend himself against the load of prejudice that has been heaped upon him by some, and to do any thing *pendente lite*, except appearing at this bar, it would be leading us over all the Societies again, and over all the proceedings of the Convention, and we should be told that unfair attempts were made to procure his acquittal, or to influence the minds of the Jury; he must therefore implore you, gentlemen, to attend, as well as you can, to the materials he is able to lay before you. Good God, gentlemen, had he the command of the purse I have alluded to, you would have from Norwich, from Manchester, and other great towns, a crowd of witnesses; the roads of England would be crowded with carriages to bring up witnesses for his defence, who would all corroborate whatever has been said by every honest man who has been examined on the most important part of this trial. Some have come here, as we defend him, from a sense of the common cause of a man standing in his situation. I do not complain against any body, but I deplore the hardships to which my client is exposed, although I know them to be unavoidable.

The meeting at the Globe Tavern took place on the 20th of Jan. 1794. In the Resolutions passed upon that occasion, there may be a great many things exceedingly imprudent and improper. But we must not draw the bands of society too tight; we must not impose upon human nature too galling a yoke, we must not require from it a perfection beyond its reach, or condemn every deviation from propriety with the same rigour as the most flagrant instances of guilt. We must judge of it by rules which will apply to the proper character of man, and which restraining destructive offences at the same time make allowance for incidental frailty. Upon this principle what shall we find in these resolutions to constitute the crime of High Treason. Though persons make use of violent expressions, and in point of strict propriety highly unbecoming and unwarrantable, are these persons because they are imprudent and irritated, at once to be branded as the most atrocious traitors? What is in their conduct to justify such a charge, or prove that they were actuated by a treasonable disposition of mind?

Treason

Treaſon is a crime, which, as the learned Serjeant very well obſerved, ſhuns the light, which ſeeks the cover of darkneſser, order to avoid that inſpection which it dreads to encount in becauſe it knows it would be fatal to its purpoſe. But here are perſons ſo conſcious of their innocent intentions, ſo well ſatisfied with reſpect to the ſafety and legality of their views, that they publiſh them in open day, and invite the attention of all mankind to thoſe very Reſolutions, on which a charge of High Treaſon is attempted to be founded againſt them. The ſame is the caſe with reſpect to the ſubſequent proceedings of the Meeting at Chalk Farm. That Meeting might be charged as ſeditious, becauſe, to collect together ſo great a number of people, was certainly a meaſure which might have led to miſchievous conſequences. But how can it poſſibly be charged as treaſonable?—a Meeting, conſiſting of men, women, and children, at which every one might be preſent who choſe to attend, and there were ſeveral ſpies among the number; where Mr. Thelwall harangued from a gallery, in order that no word of what he ſaid might be loſt by the audience. Are theſe the Aſſemblies in which Plots are uſually formed; or, is this the mode of conduct adopted by men, who have treaſonable intentions, in order to accompliſh their purpoſe? But let us return to the Committee of Co-operation. On Thurſday, the 14th of April, they did not meet, becauſe then they all went to Chalk-farm. On the 24th, the day next appointed for their Meeting, the Members from the Conſtitutional Society were not preſent at all; the Members from the Correſponding Society met, talked over the news of the day, and then ſeparated without doing any buſineſs. I do not wiſh, Gentlemen, in ſo ſolemn a cauſe, to put any thing in a ludicrous point of view; but, upon my word, it is ſcarcely poſſible to regard a charge, founded upon the union of the Committees of theſe two Societies in any other light: in one point, indeed, they moſt cordially co-operated, that is, in doing nothing:—the one did nothing and the other helped them! And how was Mr. Thelwall employed all this time; what means was he taking to accompliſh that treaſonable purpoſe with which he is charged; where are we to trace the fruits of his activity? We ſhall find him at this time, as indeed he will be proved upon all occaſions, ſhewing himſelf a loyal, dutiful, and affectionate ſubject, faithful to his Sovereign, and a ſteady friend to the Conſtitution. We ſhall find him, in all his public appearances, exhorting thoſe whom he addreſſed, to a moderate and pacific demeanor, and holding out, in the language of one of the Witneſſes, truth and reaſon as the only weapons which ought to be made uſe of to accompliſh his object of a Reform, and indeed the only weapons which

could be effectual for the purpose. Why then is this object of a Reform in Parliament to be supposed coupled with an aversion to Monarchy, or a wish to derogate from the Royal Power? What has such an object at all to do with the King's prerogative? Why are we to suppose that his Majesty should have any objection to such a Reform; or ought we not rather to believe that a Prince who rules only for the benefit of his subjects, would chearfully concur in such a Reform, if Parliament, impressed with what they found to be the sense of the great and respectable body of the People, should at last be induced to adopt the measure? Looking back then to the anterior evidence, we find Mr. Hardy implicated in every thing relative to the plan of holding a Convention, and Mr. Thelwall scarcely in the smallest degree connected with that Plan. Let us see then how the two cases differ; differ indeed they do, but we shall find all the difference in favour of the Prisoner. And here, as an abundant lesson of caution, let me recal to you a part of the evidence insisted on at great length in the former trials, and worked up with much ingenuity, to serve the purpose of the prosecution. You all know the Society of the Friends of the People, composed of some men of the first property, and allied to families of the greatest distinction in the Kingdom. Among others the Heir of the Duke of Norfolk. It was insisted on by the learned Counsel for the Crown, that the circumstance of that Society having refused to correspond with the Society for Constitutional Information, was a clear proof of the mischievous intentions of the latter. It was urged that the Friends of the People being aware of these intentions, and perceiving the dangerous lengths to which they were proceeding, not only refused to give them the smallest countenance and assistance, but declined all connection and communication with men whose principles and views they abhorred. I, as a Member of the Society, could have explained the real state of the fact, except on the ground that I did not choose to come forward as an evidence in a cause in which I was engaged as an advocate. The truth of the case was this, that the Society for Constitutional Information sent to the Friends of the People, a pert and peevish letter, which received from them a pert and peevish answer. Such was the fact, and in order to turn this against the Society for Constitutional Information, and represent them as men of violent and dangerous character, did the Counsel think fit to invest the Friends of the People with a censorial capacity, to make them the standards of political orthodoxy, and to set up their judgment, in order to bind the opinion of all other Societies. Yet we find the Society whom they have placed in this exalted capacity, corresponding with that very Scotch Convention,

vention, which has been so very often brought forward during these trials, and the proceedings of which have been made to constitute a principal ground of charge against the Prisoners. It is recorded as one of the first acts of that Convention, that Skirving, the Secretary, rose to acknowledge a letter from the Friends of the People, and to thank them for their correspondence. We find the Friends of the People sending a letter to the Corresponding Society, which was produced and read at the Meeting at Chalk Farm. The occasion of this letter was, that the London Corresponding Society applied to the Friends of the People to send a Delegate to the Convention, which they proposed to hold. Had that Society, to which I have the honour to belong, and composed of such Members as I have already stated, believed that it was the object of the Convention to depose the King, and to subvert the Constitution, would they have contented themselves with acting as they did? No: they would have answered the letters through the medium of the Secretary of State; they would have been the first to disclose the treasonable purpose, and defeat the intended plot. But how did they act?—They sent them a letter, declining to send a Delegate to the Convention; and on what ground?—Because it was a measure which, they conceived, might give rise to misrepresentation; but, at the same time, declaring, that they were disposed to co-operate with them heartily, so far as they concurred in their views of a Parliamentary Reform. If the general case be such as the learned Serjeant assumes, Mr. Hardy ought to be attainted; he ought to be called back again to the Bar, as a criminal escaped from Justice.—He was not defended by us, on the ground of imbecility and ignorance; we did not pretend to say that he was a person misled by ignorance, or incapable of exercising his judgment with respect to the transactions in which he was engaged; we defended him, on the ground of his mind and his conduct, as they appeared from the evidence which was brought forward.—Had there been proof against him of having been actuated by a treasonable purpose, and implicated in an atrocious conspiracy, I should have been ashamed in opposition to such proof to have brought forward the testimony of a few individuals as to his general peaceable character. Had a charge of so horrid a nature been established, such testimony could have weighed but little to induce an honest and impartial Jury to bring in a verdict of acquittal. What has the learned Serjeant done in the present instance to establish the existence of a general conspiracy, in which the Prisoner was concerned? He has called only one or two Members of the Societies to whom the conspiracy is imputed,

imputed, and they have directly negatived his proposition. I will bring forward a great many Members of those Societies, who, if any conspiracy had existed of the nature which is described, must have been privy to all.—Its circumstances, and their testimony will go still more strongly to prove the entire futility of the charge. But as it cannot possibly be shewn from the proceedings of the Societies that Mr. Thelwall was engaged in a criminal conspiracy, will it in the absence of all other proof be attempted to be urged, that to his Lectures we must look for the treasonable disposition of mind charged against him? Those Lectures we are told, were made the vehicle of the most abominable propositions, and that among other things, he said, "That the Monarchy established by the Norman Conquest, was an infamous usurpation, and that the Crown of this Country was connected with a system of ruffians."

With respect to the conduct and expressions of the prisoner, two witnesses have been brought forward by the crown, both of the name of Taylor. And here, gentlemen, let me beg you to remark the difference between the testimony of an unprejudiced man, and that of an unprincipled hireling. —If the prisoner was engaged in a conspiracy, it is not alledged, that the thing was done in a corner. If the conspiracy was of the extensive nature and public notoriety, which this conspiracy charged against the prisoner, necessarily must be, where is the clear and ample body of evidence, by which it ought to be established? We have a right always to expect evidence commensurate to the nature of the crime; very little evidence is necessary to establish the commission of a murder; but little evidence would be necessary to prove the existence of a conspiracy, armed solely against the person of the Sovereign. But here the learned Serjeant has failed, even in the testimony of his own witnesses; some of them have directly negatived the proposition of the indictment, and none have been able to shew any thing amiss with respect to the prisoner, but only two, and those two standing in the predicament of spies. I never asserted that the evidence of spies ought to be wholly rejected. It is sometimes necessary that Government, for its own safety, should have recourse to such agents. But in a Court of Justice, the evidence of such men ought to be well confirmed before it can implicitly be received. The case ought to be mainly made out, and sanctioned by the concurring testimony of persons entitled to credit. But if the thing itself, as in the present instance, is of such a nature as at the first glance must appear improbable, and not even capable

ble of being made out by the teſtimony of only one or two creditable men, ſhall it be taken at once from the mouth of a man of no credit? The lecture-room was ſo crowded, as you were told by that abominable witneſs, Taylor, (for ſuch I will prove him to be), that thouſands were preſent, and perſons actually carried out fainting, in conſequence of the extraordinary heat and preſſure. Are you to ſuppoſe then that the priſoner was ſo eager to beat up for the gallows, that he was ſo intent upon his own deſtruction, and the overthrow of his plans, that he took an opportunity in this crouded aſſembly, compoſed of all deſcriptions of perſons, to diſcloſe the treaſonable purpoſe of his heart? Is it not moſt amazing, that in the courſe of repeated lectures, at which thouſands were preſent, only this ſpy ſhould come forward to ſtate the expreſſions, which he has given in evidence —that not one honeſt man ſhould be found to affirm that he alſo had occaſion to hear what this man heard? If this be true, I ſhould think the country indeed advancing to a very lamentable ſituation; and the proſpect, with reſpect either to the preſervation of order, or the ſecurity of property under the Britiſh Conſtitution, conſiderably diminiſhed; if it be poſſible, that this gentleman can have gone on, from day to day, uttering the moſt abominable propoſitions in the moſt groſs and impudent language with reſpect to the different branches of our Government, and, of thouſands of auditors who were preſent, not one loyal and dutiful ſubject ſhould have been found, to diſcover the atrocity of his proceedings, or corroborate the teſtimony of Taylor, with reſpect to the particular expreſſions he employed. But how does this witneſs come forward? He ſtates that Mr. Thelwall uttered ſuch and ſuch violent and inflammatory ſentiments: where he cannot recollect the particular expreſſions, he takes upon himſelf to ſtate the character of what he ſaid. And what were the motives which carried this man to attend theſe lectures? Did he go there with an honeſt purpoſe? Did he go with any deſign to be enlightened by what he could hear? No: he went to diſcharge the vile office of a hireling, to give an information ſuited to his own particular purpoſes. The character of the witneſs ſolves the enigma. He has not come here to perjure himſelf for the firſt time, he is practiced in the trade. Had he acted otherwiſe than he has done, he would have been inconſiſtent with himſelf. He comes here branded with the crimes of felony and perjury. If we revert to his former conduct, we will find him firſt married to a woman, and becauſe ſhe choſe to give him up—and I am not indeed ſurpriſed that ſhe ſhould wiſh to get rid of

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a man of ſuch a character—he thought proper to trample upon the ſolemnity of the marriage contract, and the obligation of an oath. He could not procure a licence to marry his ſecond wife without making an affidavit that he was an unmarried man; and he firſt committed perjury in order to enable himſelf afterwards to commit felony. In the affidavit which has juſt been put into my hand, he ſtates that he was a batchelor at the time of his ſecond marriage.—When the queſtion put to him laſt night, Whether he had made ſuch an affidavit, was not admitted by the Court, my learned friend Mr. Gibbs, ingeniouſly contrived to put the queſtion in another way, and aſked him, Whether he had not repreſented himſelf as an unmarried man; to which, with unbluſhing effrontery, conſcious that his own affidavit was on record againſt him, he anſwered, No. And ſhall a man like this think, that by any evidence which he can give upon oath, he ſhall be able to ſatisfy the mind of a Britiſh Jury, or ſhed the blood of an Engliſhman? But let us ſuppoſe that this man was no ſpy; let us ſuppoſe him to be even a man of honour, and entitled to credit; let me put it to the honeſt heart of the learned Serjeant, whether ſuch evidence as he has given ought to be allowed to convict a man of the crime of High Treaſon? Let me aſk who would be ſafe if every looſe word, if every vague expreſſion, uttered in the moment of inadvertence or irritation, were to be admitted as ſufficient evidence of a criminal purpoſe of the moſt atrocious nature? In the judgment of God we ſhould indeed be ſafe, becauſe he knows the heart, he knows the infirmities with which he hath clothed us, and makes allowance for thoſe errors which ariſe from the imperfect ſtate of our nature. From that perfect acquaintance which he poſſeſſes of our frame, he is qualified to regard in their proper point of view, the involuntary errors of the miſguided mind, and the intemperate effuſions of the honeſt heart. With reſpect to theſe, in the words of a beautiful moral Writer —" The Accuſing Angel, which flies up to Heaven's Chancery, bluſhes as he gives them in; and the Recording Angel, as he writes them down, drops a tear upon the words, and blots them out for ever." Who is there, that, in the moment of levity or of paſſion, has not adopted the language of profaneneſs, and abuſed the name even of the God whom he adores? Who has not, in an unguarded hour, from a ſtrong ſenſe of abuſe, or a quick reſentment of public miſconduct, inveighed even againſt the Government to which he is moſt firmly attached? Who has not, under the impulſe of peeviſhneſs and miſapprehenſion, made uſe of harſh and

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unkind expreſſions, even with reſpect to his beſt and deareſt relations—expreſſions, which if they were ſuppoſed to proceed from the heart, would deſtroy all the affection and confidence of private life? If there is ſuch a man preſent ſo uniformly correct in expreſſion, ſo unguarded from miſtake, ſo ſuperior to paſſion, let him ſtand forth, let him claim all the praiſe due to a character ſo ſuperior to the common ſtate of humanity. For myſelf, I will only ſay, I am not that man.—Mr. Erſkine here quoted an excellent paſſage from Mr. Juſtice Forſter, on the caution that ought to be adopted in the interpretation of words, as affording evidence of criminal intention. Now, let me ſuppoſe a caſe, which ought to make thoſe who are called to decide in a queſtion, ſuch as the preſent, careful what evidence they admit, or how they form their judgment from a partial repreſentation of facts—that the priſoner was an innocent man, not having funds to contend againſt the influence of the proſecution, or ſupport the expences of a trial of extreme length; and let me ſuppoſe alſo, that we had no knowledge of the facts which invalidate the teſtimony of Taylor, no clue to guide us to his real character, but that he appeared here not as a man not chargeable with guilt, but free even from ſuſpicion, and entitled to all the credit due to an innocent man, and a conſcientious witneſs; let us make to ourſelves this ſtatement, and aſk, What might have been the conſequence? The conſequence might have been ſuch as ought to afford to all concerned in ſuch a buſineſs a leſſon of abundant caution. A Jury might have been influenced by the teſtimony of ſuch a witneſs, which the priſoner had not the means to invalidate, to ſacrifice the life of an innocent man. Let this, then, be a leſſon to all concerned in ſuch queſtions, not to travel out of the cauſe —not to drag every thing as it were into a net to enſnare the unfortunate priſoner, but to confine themſelves to the clear and unequivocal teſtimony of facts, and the ſtrict and literal application of the law.—There was another witneſs, Lynam, alſo a ſpy. In the evidence which he read from his notes, on a former trial, he ſtated, that at one of the meetings a motion had been made to put down the names of thoſe who had given evidence againſt the patriots, but was rejected by the greater number of members then preſent, and who can know whether he was not himſelf upon that occaſion left in the minority? And when laſt night I aſked him, "Whether Mr. Thelwall had not expreſsly negatived that motion, on the ground that it might lead to maſſacres, and why he had not formerly mentioned that circumſtance," he ſaid, "that Mr. Thelwall certainly had negatived the motion,

tion, but that he did not think the circumstance material." He afterwards wished to creep through, and, if possible, to explain away the omission; but all his attempts for the purpose were ineffectual—he stood confounded in the infamy of detected guilt, and with this observation on his evidence I dismiss this witness—I strike him out, as unworthy of the smallest credit. Of the witnesses whom I shall produce in favour of the prisoner, is one of the name of Parkinson, an apothecary, in Hoxton-square, a man of fair character and unblemished reputation, in every respect entitled to the utmost respect. He will state to you that he was often with the prisoner, that he was present at his lectures, and knowing him to be a man of exuberant fancy and luxuriant imagination, which tinctured even his conversation so as to make it appear different from that of any other man:—that knowing himself to be decidedly hostile to the characters and measures of the present administration, he was anxious lest he should say any thing in his lectures which should afford to misguided or wicked men, an opportunity of misrepresentation—but he was most agreeably relieved to find that he never in any instance said any thing which could fairly be construed as inflammatory or seditious, and this he stated not from one, but from all his lectures, which he had constantly attended. It is my wish not only to clear the prisoner from the charge, but to restore him to that credit and reputation in society, which must necessarily be affected by the imputation of having such a charge brought against him. With respect to the testimony of Mr. Timms, who has stated that the prisoner, while in his custody, declared, "that if they had delayed taking him up for fourteen days longer, he would have been surrounded by so many friends, that they would have found it no easy matter to apprehend him." An inference had been drawn from this piece of evidence, that a conspiracy was ripening, which in the course of a short time would have been ready to break out. Was it probable that the prisoner should make so unguarded a declaration, just after the caution which it was proved he had shewn in declining to converse with Mr. Timms on the subject of politics? No evidence of his having ever made such a declaration, could be produced from any other quarter; it rested, therefore, only on the assertion of the messenger, unsupported by any other proof. Some of the persons belonging to the societies had been very much frightened, and had confessed that they had pikes in their possession, but had any of these persons been brought to declare that they had them for any other purpose than their own defence. Edwards,

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the witness for the Crown, stated, that he was the first mover of the business, that he wanted a pike for his personal defence, and applied to Hardy, who shewed him the letter from Sheffield, containing the information how he might procure one. If this witness had been called by me, it might have been said that I was sure of him, and could promise myself from what he should state, an evidence favourable to the defence. But here is a witness for the Crown, who confesses himself to have been the first mover of the proposal with respect to arms, and unequivocally avows the whole of the transaction, as well as explains the only motive which any of them can be proved to have had in providing themselves with pikes. If the learned Counsel wish to establish that criminal intention, with which he assumed in the first instance that those arms had been provided, he ought to have been prepared to have made it by his own witnesses, and not have placed himself in the situation of thus having his own proposition directly negatived by their evidence. With respect to the other witness, Williams, the Gun-Engraver, they did not dare to ask him the question, whether he had heard any thing on the subject of arms all the time he was a member of the Corresponding Society. All that it appeared he knew of arms was from his connection in the way of business with the Lambeth armed Association, the leader of which, Franklowe, appeared different times publickly in his uniform, and so little was he desirous to conceal his preparation of force, that being a Taylor, he left the cartouch-boxes openly laying on his shop-board. Yet this association, of whom the witness never saw above twenty, and seldom more than ten at a time, the whole number of which did not amount to sixty persons, were to oppose the whole military force of Great Britain; to overturn the Constitution at the point of the bayonet, and not only had they the wickedness to form such a design, but the unparalleled audacity to make no secret of the formidable preparations which they had made for that purpose. I will call witnesses not only to the public declarations of the prisoner, but to his private conduct, and from the uniform tenor of both, shew that so far from being a man disposed to approve of violence, he was the constant advocate of moderate and pacific measures.

A paper produced in evidence, on which much stress has been laid, is a letter found in the possession of the prisoner, directed to a person in North America. It does not appear from the evidence whether this letter was ever sent, or whether the prisoner, not approving of the contents, retained it still in his possession. And what is to be made out from this letter? It is written by the prisoner to a per-

ſon in America, who ſeems to have been exceedingly intereſted in what was paſſing in France, and in whoſe eſtimation Mr. Thelwall is deſirous to raiſe himſelf, by the zeal which he diſcovers in the cauſe of Freedom. And what is to be inferred from all this? Is the ſmalleſt approbation of a republic to be conſidered as a direct indication of hoſtility to the Britiſh Conſtitution. A republic, like any other form, may exiſt beneficially in the circumſtances in which it is placed. Different duties ariſe to the ſubjects of different governments; no man will pretend to ſay that it is not the duty of the members of a Republican State to ſupport and cheriſh his own form of government; nor can the approbation given to a republic, in peculiar circumſtances, by the member of a different form of government, be inferred to be dangerous to the State under which he lives, particularly when it is recollected how much more man is the creature of habit than of reaſon; and how many circumſtances there are which tend to inſpire him with reverence for eſtabliſhed authority, and more and more endear to him the order of things to which he has been attached from his earlieſt years. And what does Mr. Thelwall ſay in this letter? He laments the fall of Roland and Condorcet; he condemns the dagger of the Maratiſts; but he conſiders the cruelties and exceſſes which have ſtained the Revolution, not to be ſo much imputable to the fault of the French nation, as to the unfavourable circumſtances in which they have been placed, and the infamous combination of deſpots formed againſt them. And what is there in all this ſo very blameable? What has the opinion which a man may entertain, with reſpect to the Revolution of France, at all to do with his ſentiments of the eſtabliſhed government of Great Britain? There may be thoſe who think that in the preſent circumſtances, a Republic the form of government to which France ought to adhere; are they therefore to be charged with an intention to ſhake the monarchy of this country? I hope in God that the period is not far diſtant when the aſpect of diſorder which government has lately exhibited in France, will be remedied by ſome ſettled plan of organization, and the dreadful calamities under which the people have ſo long ſuffered, be brought to a final termination. Changes will neceſſarily take place on the face of human affairs; governments, like thoſe beings of whom they are compoſed, are in a ſtate of conſtant fluctuation. The people of this country, by a ſucceſſion of fortunate conjunctures, have obtained that excellent government which they now poſſeſs, and under which they enjoy ſo many bleſſings. Others, by conjunctures of a different nature, have been driven into a ſituation

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less prosperous. Are the people of Great Britain, because they are themselves free and happy, not to be allowed to take an interest in the freedom, and to form wishes for the happiness of other nations? But how does Mr. Thelwall conclude this letter, on which so much stress has been laid? He tells his friend that he is fighting at home the important battles of freedom, by delivering political lectures, in order to enlighten the minds of his countrymen, the profits derived from which he is to apply to the use of the Scotch delegates—and he might have added to another purpose—the support of an aged mother.—The manner in which Mr. Thelwall concludes his letter, reminds me of a passage in Dr. Johnson's Life of Milton—"Let not our veneration for Milton (says that great Biographer) forbid us to look with some degree of merriment on great promises and small performance, on the man who hastens home because his countrymen are contending for their liberty, and when he reaches the scene of action, hires lodgings at the house of a taylor, and vapours away his patriotism in a private boarding school." So far from revealing any dangerous conspiracy, or expressing a wish to assimilate the government of this country to a Republic, Mr. Thelwall concludes with simply informing his friend of his own situation. After telling him that he is employed in fighting the battles of freedom, he states that he is engaged in a course of lectures many of which are printed, and in the hands of every body, and the whole tenor of which I shall be able to prove to have been perfectly innocent. An expression imputed to Mr. Thelwall on a former trial, in taking up a pot of porter, I suppose the Counsel for the prosecution are now convinced to have been perfectly founded in misrepresentation; had it been brought forward in the present instance, I was prepared to have met it with the most satisfactory evidence. In the letter that has been brought forward, addressed by the prisoner to Citizen Jack Tellum, I do not wish to vindicate the disrespectful expressions which he applies to persons concerned in the government; but there is one passage which entirely does away any idea of the treasonable tendency of this paper; in which he looks forward to the necessity which, he conceives, that government will be under, of conceding to the people the object of a Reform; and how can a man look forward to the future grant of an object from those legal authorities which he has in his immediate contemplation to destroy? The whole question for your consideration is a question of fact, and I must here enter my protest against the law as laid down by the learned Serjeant, when he asserted that it was sufficient that the indictment was proved

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in ſubſtance and not in form. The treaſonable purpoſe muſt neceſſarily have preceded the accompliſhment of the acts by which it is to be proved, and can only be eſtabliſhed from the clear and unequivocal evidence of thoſe acts. It is only then by acts demonſtrative of that treaſonable purpoſe, that you can be convinced of the guilt of the priſoner, and not from conjectural ſuſpicion, not from remote probability, not from far-fetched deductions of what might at any future period have been the caſe, if ſuch and ſuch proceedings had been ſuffered to go on in the country. If government then have any credit to take in the preſent inſtance, it muſt be on the ſcore of preventive policy, which is ſurely far better than vindictive juſtice. They have not been able to make out their caſe, and if the treaſonable purpoſe be not eſtabliſhed, the priſoner cannot be found guilty. But I not only aſſert that no ſuch purpoſe can be brought home to the priſoner; I deny that there exiſted any treaſon at all. The priſoner at the bar is charged with a conſpiracy. With whom then did he conſpire? Not with Hardy and Tooke, for they are both acquitted of any ſhare in a conſpiracy, by a Jury of the country; not ſurely with the four others who within theſe few days have been acquitted by the Crown. Of two great ſocieties againſt whom the charge of conſpiring has been aſſerted, one is now entirely redeemed.

As far then as my experience in the profeſſion, or my own judgment, can enable me to form an opinion, I cannot ſuppoſe that the Counſel for the proſecution have brought forward this caſe with any hope of a conviction. I cannot ſuppoſe that from the evidence brought forward they can ſuppoſe it poſſible that the priſoner ſhould be convicted of acts done in conference, and co-operation with others, of whom ſix are now acquitted, and of the remaining two, one not indicted, and the other never taken into cuſtody. The manner in which their conſpiracy was conducted, ſeems to reſemble the confuſion which took place at the Tower of Babel; they had no common language in which they could communicate to one another their treaſonable purpoſe, and though all engaged in the ſame act, a great number of them had been exculpated from the guilt of the intention. Gentlemen, when I came into this place, ſo far from thinking I ſhould be capable to take up ſo much of your time, I did not even ſuppoſe that I ſhould be able to ſtand before you. For weeks paſt I have been exhauſted with fatigue, incurred in the diſcharge of my profeſſional duty, and from the agitation of my mind, deprived of all repoſe. I have, during that period, ſtood in a ſituation, in which no Advocate was ever before

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placed, and which I shall never again be prevailed upon to encounter. In this situation, however, I have not been without some consolations. I have been placed along with an Advocate of the most correct judgment and the highest professional talents, with whom, though unconnected, as he himself professed, with all politics, in which the circumstances of my life have led me to take some share, I have had the happiness to be perfectly agreed as to the law of the case; he has discharged his duty in this arduous task with an ability and fidelity which equally do honour to his head and his heart, and has conducted himself towards me with a degree of friendship, which, till the last moment of my life I shall never forget. These have been my consolations; I have felt only that overpowering anxiety, from the task devolved upon me of defending the life of a British subject, and on a question too, connected with the protection of the Constitution, and the most sacred rights of Britons! an anxiety which every man who breathes the air of England, ought, in such circumstances, to feel.

The first witness called for the prisoner was Mr. *Stewart Kyd*, who deposed that he had been two years a Member of the Society for Constitutional Information, and their sole object was a Reform in the Representation of the House of Commons.

He stated, that he had been seven years at the bar, and was the author of some books on legal subjects. He was a member of the Committee of Conference, for considering the propriety of endeavouring to obtain a Convention of Delegates from the different Societies, for the purpose of considering the best means of accomplishing their object of a Parliamentary Reform.

He had no reason to suppose it the intention of any person in the projected Convention, to employ force, or that it was meant by that Convention to overturn the Government, or promote the deposition and death of the King. He had met in a Committee members of the London Corresponding Society, whose object he believed to be precisely the same with that of the Constitutional Society. If he had imagined they wanted to overturn the Government he would not have met them. He had seen Thelwall in the Committee, and had no reason to think he had different views. He had known Thelwall for several years, and had no reason whatever to suspect that his intentions were other than what he professed, viz. a Reform of Parliament by peaceable means. This opinion of Thelwall he collected from numerous conversations with himself; and from the witness's own knowledge, Thelwall

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was so far from being a man likely to promote disorder or tumult, that he believed what the witness did not believe, viz. that by reason and discussion universal peace might be effected among men. This was one of his favourite topics; and the witness had often heard him reprobate all acts of violence as the most hostile to the objects the Societies wished to obtain. It was the general tenor of his conversation.

In answer to questions put by Mr. Thelwall, he said he had known him for four years, and had conversed with him on all imaginable topics. If Mr. Thelwall had written to him that too much veneration was had for property, he should have understood by it, that too much regard was paid to persons possessing property without enquiring into their moral qualities. His knowledge of Mr. Thelwall was intimate enough to enable him to say with confidence, he was incapable of countenancing any set of people associated for plundering.

On cross-examination by the Attorney General, he said, he was not a member of the London Corresponding Society. He was not at the meeting at Chalk Farm. He did not become a member of the Society for Constitutional Information, till after the addresses to the French Convention, &c. had been voted. He had heard of those addresses from the newspapers, but never knew the contents of them till he saw the Report of the Secret Committee. He thought he was in the Constitutional Society when the letters from Frost and Barlow were read, but as they related to a transaction which took place before he was a member, he paid little attention to them. He was present when the thanks of the Society were voted to Frost and Barlow, but took no part in that vote. He understood the addresses to be in substance a congratulation of the French on regaining their liberties, which he did not then, nor now, think improper. With the particular mode of wording the addresses he was then unacquainted. He joined in electing St. Andre, Barrere, and Roland honorary members. He was present on the 5th March, 1793, when the letter from Norwich was read; but knew nothing of any answer to that letter. It appeared by the books that he was present on the 17th January, 1794, when the resolution—"Law ceases "to be an object of reverence when it becomes an instru-"ment of oppression"—was passed; but it did not follow that he remained till the resolution was put, or took any part in it. He was present on the 24th January, 1794, when the most excellent address of the London Corresponding Society was ordered to be entered on the books, which he thought a peaceable address. He was present when the resolutions about the King and his Parliament were passed, and approved

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of them; and alſo when it was voted that the London Correſponding Society had deſerved well of their country. Being queſtioned with reſpect to particular expreſſions in ſome of the papers, of which he had approved, he ſaid he underſtood them as the angry expreſſions of men who deeply felt the abuſes which they wiſhed to remedy, and were not ſo temperate and guarded in the terms they uſed, as perhaps they ought to have been.

Mr. Tooke, examined by Mr. Erſkine.

He became a member of the Society for Conſtitutional Information in 1779 or 1780. The object of the Society was a Parliamentary Reform. Some members connected other objects with this, one of which was a Reform of Tythes. The Society then, and for ſeveral years, had in it many perſons of rank and fortune:—The preſent Duke of Norfolk was a member; the Duke of Richmond, Sir Cecil Wray, and various members of both Houſes of Parliament, ſeveral of whom were ſtill members of the Society. The members were ſubject to change, becauſe almoſt every new miniſtry attempted, by introducing their own friends, to obtain a majority in the Society; but in one thing the Society at large agreed, which was their reſolution never to belong to any party, and all theſe attempts were baffled. Some of the Noblemen who belonged to it were ſtill members, and ſome not. The Duke of Norfolk, Earl Fitzwilliam, and others, were ſtill members. Since the inſtitution of the Society, more than one change in the object had taken place; the Reform of Tythes, or the idea of meddling with any part of the religious eſtabliſhment, had been dropped; and by the meaſures adopted it appeared to him that Univerſal Suffrage had alſo been given up. He could hardly ſpeak of the correſpondence of the Society, but as the correſpondence of ſome perſons in the Society with other perſons of other Societies. There were letters received, purporting to be letters from the London Correſponding Society. He never ſaw, or heard, or knew of, any thing that could give a colour for ſuppoſing that the intention of the Society was, to overturn the Conſtitution, depoſe the King, or in any way compaſs his death. A conſpiracy for ſuch a purpoſe, he thought, could not have exiſted in the Society unknown to him; for, it appeared to him, that, for the objects he profeſſed, he was more zealous than moſt other perſons, and, as likely to be ſuſpected, as being ready to join in any thing he approved, as any man in the country; but no man, who attended the Society when he did, could poſſibly be ignorant that he was a friend to Monarchy and our mixed form of Government.—Other members differed from him only with reſpect to

the extent of a Parliamentary Reform—Some wished for one more extensive than he professed to wish; but no member of the Society, he believed, wished for one more extensive than the Duke of Richmond's plan. What might be supposed by other persons to be the opinion of the Society, with respect to extent, seemed to fluctuate, as one set of members or another attended, so as to constitute a majority.—There were no persons in it so stupid or absurd as to imagine that the Society could produce any effect but by words and writings, reason and argument. None of the words or writings of the Society, he was sure, were intended to excite rebellion.

He remembered to have heard of a meeting to appoint Delegates to the Scotch Convention. A letter on the subject from the London Corresponding Society was received, and there was some conversation upon it; but it went no farther than conversation, as almost all the members present expressed their dislike to sending Delegates. He disliked it, as seeing no benefit it could produce.—The Convention, he thought, would not be sufficiently respectable to have any weight; but if he had thought it would be respectable enough to obtain the regard of the Legislature, he would have been the first to agree to sending Delegates to it.—His dislike was founded merely on this reason, and on no suspicion that it was intended by that Convention to usurp the authority of Parliament—a suspicion of which he never heard till he found himself in the Tower.

He recollected the proceedings on the writings of Mr. Paine; he was present when the approbation of the Society was given to Mr. Paine, and concurred in voting thanks to him for the First Part of the Rights of Man. He had no reason to think other people's motives in concurring in this vote, different from his own; he had many reasons for concurring in it. He knew Mr. Paine to be an ignorant man; and he admired him, as Stephen Duck and others had been admired, for rising above the disadvantages of education. He had been accustomed to read very long books, without finding a single page worthy of perusal; in Mr. Paine's he found one third worth any man's reading. The book was an answer to Mr. Burke, who had provoked the witness, who feeling himself as small a man as any in the kingdom, must necessarily form one of the Swinish Multitude. He considered Mr. Paine as the defender of the small, and as a man who had pointed out real abuses in a very strong manner; he thought the book would be prosecuted. His own politics always were to act according to law. The Thanks of the Society were not voted for Mr. Paine's book as tending to subvert the Government, nor was it circulated

circulated in order to destroy the Monarchy. He was personally acquainted with Mr. Paine, and more than one person now present had heard him differ with Mr. Paine on political subjects so warmly, once in particular, that in order to pacify him, he was forced to promise not to differ with him again for three months.

He remembered the Address to the French Convention, and believed he moved it himself. It was written by Mr. Barlow. Neither he who moved it, nor the Society who adopted it, had then changed their object or their principles. On the contrary, they were more than ever attached to the British Constitution. The Address proceeded from no alienation on his part; and he believed the whole meeting concurred with him in the motive, as well as in the act. His motive was, that he rejoiced sincerely in the freedom of the French. He did not expect that the establishment of a free Government in France, was to have any effect in changing the form of our Government.. He was too well acquainted with the old Government of France, not to rejoice in its overthrow; he had nearly lost his own life by it. He professed his motives, he believed, at the time of moving the Address, and the other members concurred in those motives. He knew, that under the old Government, many thousands of people died annually of putrid disorders, for want of wholesome food; he knew that every insult and oppression from men of rank, must be borne by men of no rank. He was acquainted with a man of rank who had such a thirst of blood, both of beasts and men, that he enquired only the pecuniary expence of gratifying this cruel appetite; and taking a fancy to kill the witness, and being informed that he could do it for about twenty pounds, actually stabbed him in the South of France. In March, 1792, he had no reason to think that the object of the Society was changed. If there had been a conspiracy for superseding Parliament by a Convention, from his knowledge of the individuals, Bonney, Joyce, Kyd, &c. &c. supposed to have been concerned in it, he must have discovered it. None of these men could be suspected of conspiring to overturn Governments, and compass the death of Kings; they were of the quietest and gentlest dispositions. Far from countenancing any conspiracy, he would not have remained in the Society if he had suspected one.

He had known Mr. Thelwall since 1790. He became acquainted with him first when he stood candidate for Westminster. For the last two years, Mr. Thelwall had dined at his table once every fortnight or three weeks, in all which time, he had never heard him utter a sentiment disrespectful to the Constitution. He never thought him a man capable of vio-

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lence. He saw him within a fortnight before he was sent to the Tower, and never heard from him any thing criminal.

To a question by Mr. Thelwall, "If he had received a letter from him stating, that in his opinion, some class of persons had too much veneration for property, what construction he would have put upon it?" He said he could not tell, that must depend upon the context.

Mr. *Bonney*, Attorney at Law, said, he was still a member of the Society for Constitutional Information; the object was a Reform of the Commons House of Parliament. He had no reason to think that object changed; he would not have continued a member if it had been changed to violence and rebellion. He knew Mr. Thelwall, and had seen him both in public and private. He always understood him to be a man who, like himself, thought there was great need for a Reform in Parliament. He never heard him make use of any expression hostile to the Government, or disrespectful to the King.

Captain *Harwood*, of the 19th Dragoons, had been a member of the Society for Constitutional Information, for three or four years; the object of it was merely a Reform of the House of Commons. He had met Mr. Thelwall at Mr. Tooke's, and seen him in public. He had conversed with him often on political subjects, and believed that his object was a Reform of Parliament.

In his cross-examination by the Attorney General, he said the object was a Reform of Parliament, and that all the papers printed, as he understood them, tended to this and nothing else. Some expressions in the Norwich letter, about the oppression of the aristocracy, arose, he believed, from the gross oppression which he knew the lower classes of people in Norwich suffered from the aristocracy in the discussion of political subjects. Many of them had been totally ruined. He considered that letter as calling on the people to meet as his Majesty's present Ministers had formerly called upon them; and in consequence a Petition to Parliament had been signed by above 7000 persons. The object was to petition Parliament, and excite others to petition, till the prayer of the Petitions should be granted.

Mr. *Erskine* and Mr. *Gibbs* then offered in evidence the affidavit made by John Taylor, one of the Witnesses against the Prisoner, when he took out a licence for the marriage upon which he was convicted of bigamy at the last Old Bailey Sessions.

It was objected that as Taylor in his cross-examination had not been allowed to answer the question whether he had ever

made ſuch an affidavit, the ſubſequent queſtion by Mr. Gibbs, viz. whether he had at any time after his firſt marriage, called himſelf a batchelor? fell within the ſame rule, and although anſwered by Taylor in the negative, without any objection taken at the time, could not be conſidered as evidence, and therefore no ground was laid for reading the affidavit.

Mr. *Erſkine* and Mr. *Gibbs* contended that ſufficient ground was laid by the queſtion allowed to be put and anſwered; or if not, that they had a right to give evidence of ſuch an act of moral turpitude as making that affidavit amounted to, in order to diſcredit the teſtimony of Taylor againſt the priſoner.

The Court, after ſome conſultation, decided that the affidavit could not be produced either way.

Mr. *Erſkine* and Mr. *Gibbs* were going to ſtate other grounds for receiving it.

The *Chief Juſtice* ſaid, it was only diſputing *de lana caprina*; the effect was already produced. The fact was, that the man had, ſome how or other, been betrayed into an affidavit that ought not to have been made.

Mr. *Cline*, an Anatomical Lecturer, ſaid, he had known the priſoner for ſeven years up to the preſent time; knew him to be a very moral man; had converſed often with him on politics, and believed his views extended only to a Reform of the Houſe of Commons. He expreſſed himſelf warmly on ſome occaſions, which the witneſs underſtood to be only the effect of his natural warmth; he expreſſed himſelf freely, but with no bad intention.

——— *Topham* had been porter of Gray's Inn Garden-gate, for nine years; he knew the witneſs Taylor, and took care of a horſe and chaiſe for him for three years. He had heard gentlemen call him Roberts, and had ſeen him in genteel companies anſwer to that name; this was eight years ago. Taylor always behaved to the witneſs like a gentleman, and gave him ſix ſhillings a week.

David Phillips lived at No. 6, Cambridge-ſtreet, Carnaby-market. He did not know John Taylor, but he knew Roberts, who was lately in Newgate, under the name of Taylor. Roberts took a lodging of him three quarters ago come Chriſtmas. The witneſs never knew that he was called Taylor till he went to Scotland to give evidence. About that time a perſon called at his houſe and enquired for Mr. Taylor; he ſaid that his lodger's name was Roberts, not Taylor; but the other ſaid that the name was Taylor, and his lodger was the perſon he wanted to ſee. When he heard that Taylor was in Newgate, he went from curioſity to ſee if it was the ſame man. He enquired at the Felon's-Gate, as he believes, for Mr. Taylor, or

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John Taylor; the people told him there was no ſuch perſon there, but that if he went to Mr. Kirby's he would find Gentleman Taylor. He went to Mr. Kirby's, and had a converſation with his lodger. Taylor was amazed that the witneſs was not ſubpœnaed on his trial, and bade him, if he ſhould be ſubpœnaed, ſay that he knew him before by the name of Taylor.

On his croſs-examination by Mr. Law, he ſaid, that the woman who lodged in his houſe with Roberts paſſed for his wife; that Roberts did not come to ſee her occaſionally, but ſlept there every night. He had no other lodger, but the widow of a tradeſman, who lived on her means. He had been a Houſekeeper, within a few yards of where he now lived, for eight and twenty years.

Mr. *Parkinſon*, Surgeon and Apothecary, of Hoxton-ſquare, ſaid, he had been pretty intimate with the Priſoner for the laſt ſeven years. He had attended his public Lectures three or four times, and, from great attention, could ſay, that the general tenor of them was, to impreſs on his hearers a love for right, and reſpect for law. He attended to them with particular anxiety, and found in them to his thinking no tranſgreſſion. He never heard him ſpeak in contempt of legal authority, or of the King. He ſpoke of Miniſters in ſuch terms of diſapprobation, as induced the Witneſs to fear would make them put him into ſome ſuch ſituation as that in which he now ſtood. The Priſoner ſpoke with warmth; but that the Witneſs accounted for by his never having known a man whopoſſeſſed greater luxuriance of ideas, or who expreſſed thoſe ideas with greater energy and propriety; but he was fearful, that the uſe of luxuriant language, on common occaſions, might lead him, upon greater, to expreſs himſelf in ſuch a way as would expoſe him to ſuffer, from the perverſion of his meaning by intereſted perſons. His character in private life was amiable. The Witneſs had ſeen an aged mother, a wife, a child, and a brother deranged in mind, all of whom the Priſoner ſupported.

On his croſs examination by the Attorney General, he ſaid he became a Member of the London Correſponding Society about two years ago. He attended the meetings at the Globe Tavern and at Chalk Farm. He wrote a pamphlet, called "Reformers no Rioters." He was a Member of the Correſponding Committee, appointed after ſeveral of the Members of the old Committee had been taken into cuſtody. That Committee, he believed, was nominated by Hodgſon. He ſaw Hodgſon yeſterday morning. He never objected to telling when he had ſeen Hodgſon but once, when he thought that admitting Hodgſon into his houſe might be made miſpriſion of Treaſon. He had ſince learned that it could not. He had

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in his poſſeſſion the paper called "The Guillotine," but he did not get that paper in the Correſponding Society.—He thought the proceedings at the Globe Tavern peaceable proceedings; he attended but little to thoſe at Chalk Farm, and declined giving any opinion reſpecting them. In the courſe of a long croſs examination, which produced nothing material, he ſaid the paper he wrote was ſold for the benefit of the families of the preſons taken into cuſtody, whom he ſincerely believed to be innocent. The title of it was, "Revolution without bloodſhed; or, Reform preferable to Revolt;" and it concluded with the words Tyrants! Tyrants! Tyrants!

To a queſtion by Mr. Erſkine, he anſwered, that from all he ever ſaw or heard in Societies or Committees, he believed the intention to be a Reform of Parliament, by peaceable means; if he had ſeen any thing criminal he would not only have left the Societies, but done the duty of a good ſubject, and informed againſt them.

Mr. *Clark*, Surgeon, had known Mr. Thelwall for three years. He belonged to no political Societies. He became acquainted with Mr. Thelwall as a man of letters, in a Society of Literary and Scientific men. An intimacy enſued between them.—Mr. Thelwall's behaviour was always ſuch as did him honour as a moral man and a good member of ſociety. He had great peace, quietneſs and ſedateneſs of demeanour. His character, by all who knew him in private life, was that of a man who wiſhed to carry every point with others by argument and calm diſcuſſion.

Mr. *Wilſon*, of Bedford-ſtreet, Covent-garden, where he has reſided more than forty years, Surgeon and Apothecary, had known Mr. Thelwall from his infancy. The Witneſs attended no Political Societies. Mr. Thelwall was amiable, and entitled to every degree of eſtimation, as a Son, a Brother, a Huſband, and a Father.

Mr. *Thelwall*.—Has Mr. Wilſon known me under the experience of trials and misfortunes?

A. I have.

Q. Can Mr. Wilſon tell whether thoſe misfortunes aroſe from any miſconduct of my own?

A. Certainly not: they aroſe from branches of Mr. Thelwall's family, over whoſe conduct he had no controul.

Q. Does Mr. Wilſon know, that I ſtruggled to maintain a mother and a brother, on the ſcanty earnings of my literary labours, when they did not amount to fifty pounds a year?

A. I cannot tell what was the amount of his literary earnings: I believe they were very ſcanty; and I know that out of them he ſupported his mother and his brother.

Q. Under

Q. Under all my misfortunes, which you have known, did the breath of Calumny ever taint my fame?

A. I never heard of your committing a breach of integrity in my life.

Another witness was called, and Mr. Thelwall said several others were in waiting, but as he thought the Court and the Jury must be satisfied with respect to his general character, he would not detain them with calling any more, unless his Counsel thought it necessary.

Here the evidence for the defence closed.

Mr. *Gibbs* said, he had not a moment's time to consider the evidence, great as was the mass of it upon which he was now to remark, nor to make any kind of preparation upon the subject. He therefore requested the Court to adjourn.

The *Chief Justice* observed, that it was little more than seven o'clock, and he did not see how the Court could adjourn so long before the usual time. He was sorry to press Mr. Gibbs; but every delay not absolutely necessary must be avoided.

Mr. *Gibbs* then rose to make his observations, in the best manner the circumstances under which he felt himself would permit. He said he should not detain the Jury long, for as he had already stated, he had had no opportunity of looking back upon the evidence adduced. He had only a general recollection of a case of such magnitude, of a mass of evidence so voluminous, that, as his Lordship had said in summing up on the trial of Mr. Tooke, tended rather to oppress the mind by its weight, than to relieve it by being more than once repeated. First, he must beg leave to pay his debt of gratitude to his learned friend, Mr. Erskine, for the assistance and support he had received from him in these laborious and unprecedented investigations. He blushed at the idea of his Learned Friend having been assisted by him. On the contrary, he had been encouraged, invigorated, and borne up by the indefatigable abilities of his Learned Friend, but for whose aid he must have sunk under the task—dispirited and incapable. That he might not be involved in the herd of innovators, as all were now called, who thought differently from those who chose to call them so, he would not state to the Jury any opinion of his own, as to what the law was; he would quote no authorities, for to none had he had time to refer; he would state simply as matter of history and of fact, what had been done in other cases.

His learned friend, Mr. Erskine, had truly said, that the Court, under the commission by which it was constituted, was a Court that could take cognizance only of High Treason; in the indictment, no Treason was stated, but com-

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passing the death of the King; so that in every point of view, the only thing the Jury had to enquire concerning, was compassing the death of the King. This, by the statute, was confined to the words of the statute. In the trial of Lord Russell, where conspiring to seize the King's guards was part of the charge, Lord Chief Justice Pemberton said, that the point to be made out to the satisfaction of the Jury, was not conspiring to seize the guards, but compassing the death of the King; and whether Lord Russell had conspired to raise insurrection and rebellion with this intent. These were facts which wanted not the support of argument, or the corroboration of authority. It must be proved that the gentleman at the bar had committed the overt-acts charged in the indictment, or some of them, with the intent of deposing the King and compassing his death. Mr. Serjeant Adair had said in his opening, that they might confine their attention to the charge of conspiring to call a Convention to overturn the Government. He wished the Jury to attend to this position. The first overt-act charged in the indictment, and indeed all the rest, as far as they were applied by evidence to the gentleman at the bar, made it clear, that the whole charge was a conspiracy to call a Convention to overturn the Government, on the mode of calling which Convention, the Committee of Co-operation was supposed to have deliberated. Now out of this conspiracy were already plucked by the acquittals which had already taken place, the greater part of the conspirators. On the two former trials, and till it was thought convenient to do otherwise, Mr. Hardy and Mr. Tooke were always represented as the leaders of the two societies, as the founders of the whole plot. Now, when the charge of conspiracy, when the charge of calling a Convention, with the evil intention imputed, was negatived with respect to them, it was said, nay, it was attempted to be proved, that although the leaders were innocent, their followers were clearly involved in the guilt. This was much the same as if the leaders of two armies, having made it clear that they never marched, nor intended to march to a certain place, the troops who acted under their orders, should be held to have intended what their generals did not. Still, however, it was attempted to make out that these underlings had designs, of which their leaders knew nothing. But after Mr. Tooke and Mr. Hardy had been proved innocent, it was monstrous, it was too shocking for human credulity to say, that those who only trod in their steps were guilty. Mr. Thelwall was not even a member of the London Corresponding Society during the greater part of the transactions

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given in evidence as proofs againſt Mr. Hardy. The learned Judge, in ſumming up upon Hardy's trial, had ſaid, that he appeared to be deeply implicated in the buſineſs of the Scotch Convention; that he had received letters which he did not communicate to the ſocieties; and that he had adviſed Skirving to invite the London Societies to ſend delegates, and to conceal that the ſuggeſtion came from him. Yet Hardy was acquitted; and the evidence which was found inſufficient to convict him, maimed and mutilated as it now was, brought forward to take away the life of the gentleman at the bar. This, he repeated, was monſtrous. The meeting at the Globe Tavern was now called an overt-act of Treaſon, which it had not been before, becauſe the proſecutors felt the lameneſs of their caſe, and how much it wanted to help it out. But Hardy too was at the Globe Tavern, and what did not criminate Mr. Hardy, was intended to criminate Mr. Thelwall. In the ſame manner he reaſoned on the meeting at Chalk Farm. On the trial of Mr. Tooke, were not the Jury told that the addreſſes to the Convention and Societies in France; the ſpeeches made by Mr. Froſt and Mr. Barlow on preſenting thoſe addreſſes; and the approbation of thoſe ſpeeches in the Society for Conſtitutional Information; contained the main ingredients, and the ſtrongeſt evidence of the charge: Mr. Tooke, a leading member of that Society, was acquitted; and notwithſtanding his acquittal, Mr. Thelwall, not a member of that ſociety, was accuſed on theſe facts! He had not words to expreſs his indignation at ſuch a proceeding. It muſt, indeed, raiſe one's indignation to ſee a proſecution ſo conducted againſt a friendleſs man. Feeling the neceſſity of appearing to make out a ſtronger caſe, the counſel for the Proſecution brought forward a letter from Mr. Thelwall to ſomebody, which, for any thing that appears, was never ſent, and from ſome expreſſions in this letter, they attempted to extract Treaſon. There might be unguarded or improper expreſſions in that letter; but, however erroneous the ſpeculative opinions of the writer might be, Mr. Taylor, the witneſs for the Crown, not Taylor the perjured witneſs, ſaid it was Mr. Thelwall's principle to carry opinions into effect, not by force, but by reaſon. This letter, never publiſhed, never intended to be publiſhed in this country, they brought in proof of a deſign to overturn the government of this country. To argue upon ſuch evidence, would be waſte of time; the leaſt that could be ſaid of it was, that it was contemptible. Next they reſorted to his political lectures. It was in proof that theſe lectures were given to multitudes; not to members of the

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Correſponding Society, but to all who choſe to attend. If they had contained any thing criminal, could a cloud of witneſſes have been wanting to prove it? To prove this, the counſel for the Crown could find none but ſpies, and of that tribe but one. What is the man they bring?—We objected, that he had been convicted of a felony;—they ſaid, he had perjured himſelf, but having ſuffered the puniſhment awarded for his offence, he ſtood here a competent witneſs. But it appears, that he has married a ſecond wife while his firſt was ſtill living; and that, being married by licence, he muſt have taken a falſe oath. Of this, however, we were not permitted to give evidence; but how ſtands he before you in this Court?—As a perjured man; as a man who has ſworn in your preſence what he knew to be falſe. When I croſs-examined him, and aſked whether he had ever gone by another name, the boldneſs of his anſwer ſurpriſed me: I knew I was inſtructed in my brief, that he had gone by another name; but I began to ſuſpect that I had been miſinformed.—If he was not ſufficiently perjured before, to render it impoſſible for you to believe a word he ſays, he ſurely is ſo now: he ſwears plumply, that he never went by another name; we called two witneſſes to prove, that what he ſwears is falſe. The counſel for the Crown dare not call him up again, to confront him with thoſe witneſſes, and I commend their diſcretion; for, if they did, we ſhould certainly move to have him committed. Mr. Topham ſays he has known him go by the name of Roberts; but this was eight years ago. What ſays Mr. Phillips—a man who has been eight-and-twenty years a houſe-keeper in the neighbourhood where he now lives?—He ſays, that Taylor took lodgings in his houſe not quite three quarters of a year ago, where he lived, till very lately, by the name of Roberts; and that he never knew him by any other name.—Taylor is ſeen by Mr. Phillips, in Newgate; and, having committed perjury, he is willing to add to it ſubornation of perjury, and endeavours to prevail upon Phillips, if he ſhould be called as a witneſs, to ſwear that he knew him by the name of Taylor, not of Roberts. Can you, after this, pay any attention to Taylor's evidence? If we had no witneſſes to impeach his credibility, the very circumſtances would render it ſuſpicious: the facts he ſwears to, if true, might have been proved by hundreds; but he is produced, without even a ſpy to ſecond him!—The whole of his evidence muſt be laid aſide; and, if ſo, what remains?—Half the evidence which was inſufficient to convict Hardy, and that half again deprived of another half. The learned Serjeant told you in

his opening, that you ought not to court the applauses of the multitude. I say so too; but, in doing right, which I know you will do, you cannot avoid them: you will enjoy the sweetest and the most valuable popularity—that which is not courted, but which follows the upright discharge of duty. To the superintending providence of God, and to your Justice, on God and whom he has put himself for his trial, I commit my Client.

The Court adjourned at eight o'clock.

FOURTH DAY.

THURSDAY, DEC. 4, 1794.

Mr. Serjeant *Adair* proceeded to address the Court and Jury by way of reply. He said it now became his duty to state to the Jury the points that in his opinion would be the most material for their consideration upon the whole of the evidence that had been laid before them, as well for as against the Prisoner, in the course of this proceeding. It was on the day he opened the case, as well as on this day, his object to endeavour to render the case as plain to them as he could, in the investigation of the only possible question they could have to try, whether the unfortunate gentleman at the bar was or was not guilty of the crime charged upon that Indictment.

His learned Friend, who opened the defence for the Prisoner, had freely admitted, and he thanked him for his share of the compliment, that these prosecutions had hitherto been candidly and fairly conducted; he hoped the Jury would be of that opinion as to this trial, and he should not, he trusted, say any thing to-day that would induce them to change their opinion of the manner in which this prosecution was carried on from that which they had formed at the opening of this prosecution.

He then took notice of the asperity with which, as it appeared to him, Mr. Erskine treated this prosecution; for he had observed he could not suppress his indignation to see these facts brought forward against this helpless man, after Mr. Tooke, Mr. Hardy and others had been acquitted.—Now, the learned Serjeant said, he would appeal to all who heard his opening, and the whole of the trial hitherto, if in the course of the trial, and he would appeal to his learned Friend who made the observation, whether there was any thing in his temper and disposition of mind, or any thing in the character of his life, that

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led him to think he was cruel. He would appeal to the Jury themſelves, and aſk them whether they thought there had been any thing in the conduct of this cauſe, on the part of the proſecution, that met their cenſure. That he ſhould obſerve on ſome parts of the evidence given againſt thoſe who had been acquitted, was certain, but that any blame was to be attached to the proſecution on that account, he utterly denied. There was much evidence which could not immediately affect the Priſoner at the Bar, but he had already, and he now repeated it, cautioned the Jury againſt applying any thing to the Priſoner at the Bar, unleſs the application of parts of the evidence againſt others, aroſe out of the concurrence of the Priſoner in the acts which that evidence deſcribed, and that the views and principles imputed to him were clearly brought home to his charge. He would trouble the Jury no more upon this part of the caſe; he ſhould not have ſubmitted any thing upon it, if he had not thought it adviſeable to do away any unfair imputation, which in the warmth and animation of an eloquent ſpeech might inadvertently have given birth to an imputation ſo far from being deſerved, that his heart recoiled at it. He ſhould not endeavour to follow his learned friend, the leading Counſel for the Priſoner, in promiſing what he did intend to perform, namely, laying down a plan of what he intended to do, and then departing from that plan.

The firſt thing then he had to do, was to diſpoſe of a general obſervation, which had been made in the cauſe, and which ſeemed to him to have but little, if any thing, to do with the evidence given in the caſe. With regard to the law of this caſe, he ſhould have but little to ſay, becauſe upon that point the Jury would receive the beſt inſtruction from the Court; but there were a few obſervations to be made by him upon that ſubject, and to ſubmit them to the conſideration of the Jury. The learned gentleman, who took the lead of the defence, had begun with ſtating a propoſition, in which he, from his ſoul, concurred, and which he hoped and truſted would endear the Conſtitution of this Country to the People who had the happineſs to live under it; it was this, that the adminiſtration of Criminal Juſtice was ſuch, that you could not touch the hair of a man's head for any thing he did, without firſt making a ſpecific charge, and then ſupporting that charge with ſpecific proof; and he hoped the proof already given on the trials that had preceded this, had manifeſted to the world, that ſuch is the adminiſtration of the Criminal Law of England; he hoped that truth would have a proper effect on thoſe who have been already acquitted, and a proper effect on the public mind; he truſted that the proceedings of this Court would give the lie direct

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to all those who had been endeavouring to defame the administration of the Criminal Law of this Country. The next thing which had been mentioned by the same learned Gentleman, that no man should be punished for the offence charged upon this record, unless his evil intention was proved beyond a doubt—to this proposition he assented also; God forbid he should ever ask a Jury to convict any man; his evil intention should be manifested, and unless his declarations, be they what they might, were followed up by acts to prove his intention.

The charge was stated to be the compassing the death of the King; but the overt-acts by which this was to be manifested, were as various as the wicked imaginations of those to whom they might be applied; and if any of those acts be proved, so as to manifest that intention, that would be sufficient to support the charge. There were several charges in the Indictment which did not apply to the using of force; there were others which charged the design to be to use force; but either of these would do for the purposes of this Indictment, if proved. The learned Gentleman, who led the defence, had said he did not stand upon the law, but upon the fact; the question of fact, said he, was, Whether the Convention was to be held with the intent stated in the Indictment; and, said he, you must take the means to do it before any intention can be imputed to you, which this Indictment charges, and consequently before you are guilty of High Treason. Now the learned Serjeant would venture to affirm in that Court, that for parties to meet together, and consult for that purpose, was sufficient in law to make out a charge of High Treason; and here he must take notice of part of the evidence, because it immediately related to this part of the case. By the evidence of Edwards it appeared that a Parliamentary Reform was to be effected by force of arms, if other means should fail; if this was the case, it was, in the language of the Indictment, for subverting the Rule and Government of the Kingdom these arms were provided; and, again, to use the language of the statute, this was to depose the King, and to compass the King's death; for he had no difficulty in saying, that in the view of the law, as well as upon every principle of justice and common sense, to depose the King was to compass his death. The question, whenever it had been brought forward in any Court of Justice, had been uniformly decided in that way. This, therefore, led him to observe, that in this case it was not necessary that there should be a specific design against the King's life; but an attack against the Government of the King, the state of the King, to depose him, or to take away his authority;

thority; of all these things had been decided to be High Treason.

He then came to the defence of the Prisoner.—It had been stated, by the learned Counsel for the Gentleman at the bar, that after the acquittal of Mr. Hardy and Mr. Tooke, and again four others, he was embarrassed to find the reason for persisting in this charge against the Prisoner; and then, he observed, that before the Jury convicted him, they must conceive that he conspired with these very men; and that was impossible, for they were acquitted. Now he would state to the Jury the grounds of the proceedings in this respect. In the case of the four Gentlemen who had been acquitted, in a manner so much to the honour of the Attorney General, that learned Gentleman, in the exercise of that candour which so eminently belonged to him, bowed to the verdict of a former Jury; for finding the case of these four Gentlemen to be similar in point of evidence to those two trials which a Jury had disposed of, he, therefore, saved the Court the trouble, and the Prisoners the pain, of going through a trial, by consenting to their acquittal at once. But this cause stood distinct from all others, and, therefore, should be tried upon its own merits. He had already stated, he did not say any thing against the verdict given in the case of Hardy; he had no doubt it was to the Jury a fair and honourable verdict, but it was not necessary for him to go so far as to say, he should have found the same verdict; but he would say, that although the case of Hardy was disposed of, still every cause must stand upon its own ground; and this, in every leading feature, was essentially different from that, and from all the rest which had been already disposed of; they would recollect, therefore, the reason of proceeding upon this trial, and recollect, also, what parts of the evidence they had heard before, which, from the bearing they had on this trial, he was obliged to recapitulate. There were two very leading points to be considered, in order to determine on the question, Whether force was intended to be applied to effectuate the purpose of those who attempted to call the Convention in England?

The one was the expedient of providing arms by somebody. That could not be denied, for it was proved beyond all doubt. The other,—Whether the providing these arms was brought home to the Prisoner by distinct evidence? It was material to know, whether the persons with whom the Prisoner was associated, were guilty of this or not, was a question to be examined by the Jury, and here it seemed rather unfavourable to the Prisoner, that he became the leader of these persons all at once, and upon this the Jury would consider the evidence as it applied to them all.

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It had been ſtated very emphatically to the Jury, that if there was any guilt in thoſe proceedings, Hardy was the chief actor in them all; this appeared to him to be very extraordinary conduct on the part of the learned Gentleman who had the charge of conducting the defence. On the trial of Hardy, the ſame learned Gentleman ſtrenuouſly inſiſted on it, that Hardy was the mere tool and inſtrument of others; that he was a plain, ſimple man; a harmleſs, inoffenſive tradeſman, not a judge of the tendency of papers to which he put his pen—who had never been proved by a witneſs for the Crown to have uttered a ſingle ſentence againſt the Crown, except where he had acted as Secretary to the London Correſponding Society, where he was a tool in the hand of others. All this had its effect on the trial; and on the part of the Jury, an honeſt and an honourable effect; but what were the Jury to think when that verdict was reprobated in this caſe by the very perſons whoſe eloquence obtained it; for this ſame Hardy, who was then called a ſimple, harmleſs, inoffenſive man, was now, all at once, made the Leader and the Framer of this Society; theſe oppoſite concluſions would not do. The Jury thought that Hardy was brought forward into the front of the battle by others more deſigning and artful; they found his name to various papers, and that ſignature in the hand-writing of others; and on ſuch ideas as ſuch a defence had created, they, naturally enough, were diſpoſed not to preſs upon him; but had Hardy's Counſel repreſented him to the Jury as acting not as Secretary, but as they did now, the learned Serjeant ſaid, he did not believe the verdict would have been the ſame. But whatever Hardy might have done as an individual, yet he did not think it fair to endeavour to implicate the caſe of the Priſoner with any thing that Hardy did in any character but that of Secretary to the London Correſponding Society, for it did not appear that the Priſoner had any concern with him in any other character, and therefore he did not think it fair to produce a letter of Hardy's, relative to the calling of this Convention in England.

He next obſerved, that having made a diſtinction between the caſe of the Priſoner and that of Hardy, he ſhould ſhew that the caſe of Mr. Tooke, and that of the Priſoner at the bar were ſtill more diſtinguiſhable; for Mr. Tooke had been proved not to have concurred in the meaſure of ſending Delegates to the Convention in Scotland. Mr. Tooke was not preſent at the Meeting at the Globe Tavern on the 20th of January, nor at any of that Society afterwards. Mr. Tooke was not preſent at the Meeting at Chalk Farm, nor was he a Member of that Society; nor was the general political character of Mr. Tooke, at all ſimilar to that of the Gentleman now at the Bar.

The next thing for the consideration of the Jury was, What were the intentions of these persons who met at the Globe Tavern and at Chalk Farm? and upon this he would assert, he was subject to be corrected from the Bench if he was wrong, that if they intended to make laws of their own authority, they were by those acts guilty of High Treason. The design of taking up arms would not be necessary to be proved in the case of the intended Convention, if it was intended that such Convention should make laws for themselves and for the public, nor was it material whether they intended to depose the King or not, for if they intended to alter the rule and government of the Kingdom, even although they might afterwards intend to restore the King to his authority, still they will in that case be guilty of High Treason. Whether they meant to depose the King or not, if they meant, by any of their acts, or by any of the publications they sent forth, to bring the minds of the People to approve of their plan, so as to enable them to usurp the power of the Government of the Kingdom, that would support the charge in this indictment.

The learned leader of the defence had said it was extraordinary, not one of the Members of the Society had been called to prove these objects to be in the contemplation of the Gentleman at the Bar. Now, he must say, this was an extraordinary assertion; for, he thought, a hundred of them would have been called for the defence. On the part of the Crown, it was not the usual way to call persons to prove their own criminal intention; and, he must beg leave to say, it was not a legal mode of examination. If any such Witness had been called to prove this on the part of the Crown, the very first question would have been such as, by the rules of law, he would not have been bound to answer, and which the Court, he thought, would not permit him to be asked; certainly the Court would protect him in his refusal to answer; for, if he answered in the affirmative, he would involve himself in the guilt of High Treason. He who had been charged with the offence for which the Prisoner now stood upon his trial, and who had been acquitted, was certainly under no such difficulty; he might answer in the affirmative, if he pleased, for the charge was over as against him. The reason was therefore obvious why the Crown did not call any of the Members of this Society. Why they were not called on the part of the Prisoner, he believed, was nearly as obvious: he dared to say, they would, if the Prisoner could have been benefited by their testimony; there were none, therefore, called from that Society, except Mr. Parkinson—not even Mr. Hardy, who, as Secretary to the Society, necessarily knew most of its proceedings; the truth was, they had not dared to call them.

These things he laid before the Jury, to shew the general effect of the conduct of these Societies, and of the London Corresponding Society in particular: they all professed a desire for Parliamentary Reform by legal means, and which, perhaps, might be so at first; and, perhaps, they might have pursued that object for a time by legal means; but he meant to shew that they had deserted that idea, and meant to pursue the same object by illegal means, or rather, that they changed their object altogether; and that, whatever they intended to do, they meant to effect of themselves, independent of any other power or authority; and he had taken pains to explain the case before the Jury.

It had been stated, that the crime described by the record, and the suspicion which gave birth to it, originated with Government; and that it had not existed any where else. This he thought it his duty to answer, for it was not true; for the same charge was made by others against the London Corresponding Society, and that by those who had the best means of judging of them—their own correspondents. The impression which the proceedings of this Society made upon the plain man was material to be considered, for what he had now to offer was not a subtile refined construction, arising out of the jealousy of Government, but the construction of a plain man; and this went to another part of the case, because the Prisoner had called four or five witnesses to tell the Jury they never suspected these intentions. Was it true that nobody but those engaged for the Crown suspected these intentions? He begged of the Jury to recollect the letter from Norwich, asking this Society a plain blunt question; asking them that which was imputed to them in this Indictment, Whether they meant to rip up Monarchy by the roots, and to plant Democracy in its stead? That was the charge stated in this Record; for that was to subvert the Legislature, Rule, and Government of this Kingdom, and to depose his Majesty from the Throne; and were the Officers of the Crown now to be told that the suspicion was entirely theirs. The truth, he believed, was, there were two purposes in this Society—the open, public, professed purpose, and a private purpose to be acted upon when they should have an opportunity. They had designs which they would not avow, until they thought they had found, what he hoped they never would—the minds of the majority of the people with them. It was evident they were doing all they could to make the people of that mind, by the industry with which they circulated the works of Paine and Barlow. The most wild, wicked, and cruel doctrines in these books, subversive not only of this Government, but of all Government and of all order, were to be disseminated among the

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maſs of the people, to prepare them for what this Society had in view. Paine and Barlow were the literary Repreſentatives of this Society, whoſe ſentiments they had all adopted, and which ſentiments they did all they could to make the public adopt; to ſay that thoſe who induſtriouſly diſperſed theſe books, could have any ſerious idea of a Parliamentary Reform was ridiculous; for theſe books not only ſtated that Parliament would not reform itſelf, but that it had not the power or authority to do ſo if it had the inclination. Theſe books were directly againſt the purpoſe which the Societies profeſſed, and directly for the concluſion for which the Counſel for the Crown contended. This was not all; he would aſk, What have Societies in this country in a view for Parliamentary Reform, to do with the Societies of France? the two learned Gentlemen who were Counſel for the Priſoner avoided this altogether; they did well in avoiding it; they knew they could not anſwer it; if it had been ſuch a thing as the boldneſs of an Advocate could grapple with it, the learned leader of the defence would have attempted it. All this was general evidence, applicable generally to all the Members of theſe Societies, and therefore when connected with other circumſtances, might tend to convict the Priſoner now upon his trial, although Hardy had been acquitted.

The learned Serjeant then went over the books of the London Correſponding Society, and made many comments on them, and particularly on the admiſſion of Barrere, St. Andre and Roland, as honorary Members, as alſo on the ſpeeches made by Barlow and Froſt at the Bar of the National Convention of France, on preſenting the Addreſs, as well as on the thanks voted to theſe perſons for their conduct, &c. maintaining that it contributed to prove the main point of the Society to ſubvert the Rule and Government of this Kingdom.

The learned Counſel for the Priſoner had laid great ſtreſs on the hardſhip to which his client was expoſed; that he had not means to bring from Sheffield, from Mancheſter, and other populous places, hundreds and hundreds of witneſſes he might examine, who might know all the innocence of his communications; but why did he not try to ſatisfy the Court with one of them; and why did he not call the Members of the London Correſponding Society, for they were all eaſily brought into Court?

He had produced ſome evidence, however, but the very nature of the queſtion that muſt of neceſſity be put to them, rendered their anſwers of but little importance, for they all muſt neceſſarily give one anſwer. When a queſtion was put to a witneſs, "Was it the intention of your Society to overturn Government, conſiſting, as it does, of King, Lords and Com-

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mons? Or, Would you have continued if that had been their object?"—Only one answer could be given to such a question. It was sure to be in the negative; they could not think of involving themselves in the penalties of High Treason, which they must do if they answered in the affirmative. Mr. Kydd, however, a Gentleman at the Bar, had given his opinion that many of the proceedings were legal and constitutional; now he wished the Jury to learn from Mr. Kydd, what he thought legal and constitutional. He thought so of the address of the thanks of the Constitutional Society to the London Corresponding Society, on the 23d of June, and when it was voted that the London Corresponding Society had deserved well of their country, on the 20th of January. He admitted he was at Chalk Farm, &c. The learned Serjeant said he differed from Mr. Kydd upon the legality, and upon the propriety of these measures. Mr. Parkinson's evidence was of the same nature, for he had concurred in these resolutions, and now approved of them upon reflection. Mr. Kydd said now, that he approved of the Resolutions in January, and saw nothing criminal, illegal, or even improper in them now. Why then, the Jury had the opinion of these Gentlemen on these things, and the Jury saw the materials on which they formed their opinion; they say they see nothing improper in the minds of these people, and the Jury would find that there was nothing to wonder upon that point, for these Gentlemen approved of the means these persons had used; a length this, to which he hoped but few persons would follow them; nor was it wonderful that either of these Gentlemen had concurred in a Resolution that the London Corresponding Society had deserved well of their Country.—Catiline might have produced the same evidence in Rome; he too, and his party, had their list of grievances, and they too might, no doubt, have had a vote of thanks, and that they had deserved well of their Country, but this vote, he believed, would only have come from their own party. If the Jury should agree in opinion with these witnesses, if they should see there was nothing improper in the proceedings of the 20th of January, and the Court should say there was nothing illegal in them, he should give up the whole of this proceeding; but if, on the contrary, the Jury saw in them an avowal of principles, which if acted upon with effect must subvert the Government; if they saw a consulation as to the means of their effecting this, and for others to co-operate with them, the Jury would then judge of them from their own breasts, and not from the opinions of these two witnesses.

As to the pikes, he observed, there were those who thought they had been legally provided, and that they must be legal for constitutional

constitutional means; but he was of a contrary opinion. Upon the subject of these pikes, he took notice of the evidence of the two witnesses, Edwards and Williams, they were not Spies; but they were both of them Members of the London Corresponding Society, and one of them boldly avowed the object at the hazard of his life; he said he was apprehensive they would be illegally dispersed. The learned Counsel for the defence, seemed to say, that if their intentions were innocent, they should be illegally dispersed, if dispersed at all by force. Now all he could say on this point was, that to answer whether their dispersion be necessary or not, was not his business now, for that was a thing that must depend on circumstances; but if done by authority, their resisting it would be a crime at least. From this part of the evidence, it was clear that the Members of this Society were taught they should learn the use of arms; but as to this he should observe, that this never became an act of the Society, nor should it implicate the Prisoner, any further than as general evidence, applicable to those with whom he was associated. Williams, the other witness, declared it was the intention of the parties, that if a Parliamentary Reform could not be effected in any other way, it was to be obtained by force of arms; this he maintained to be a distinct avowal of an act of High Treason; for he believed that no one would be hardy enough to state in a Court of Law, that to take arms against the Legislature, was not an act of High Treason. The persons who had taken these arms, were called, or rather they called themselves, the Loyal Lambeth Association; they were no more a Lambeth Association, than they were loyal, for except the person who projected the plan, not one of them was an Inhabitant of Lambeth; but the plan appeared to proceed from the Society, since they admitted none but the Members of the London Corresponding Society.

He came now to the evidence which particularly affected the Prisoner himself; and, until he was able to apply the evidence particularly to him, he confessed he had done nothing. The first acquaintance we had, in this cause, with the Prisoner, was in the year 1792, when he was one of the institutors of a Society in the Borough of Southwark; and the evidence on this head was given by a friend of Mr. Thelwall, a gentleman of the name of John Taylor, who came from Norwich, and whose name the Jury would be pleased to keep distinct from a person of the same name who had given evidence in this cause. The witness said that this Society was instituted for the purpose of obtaining a Parliamentary Reform; now he wished to see whether the evidence of that Gentleman was consistent with the fact, and the fact he alluded to was the declaration of the Society itself;

itself; and here it happened unfortunately, that the very thing which the witness said the Society was instituted for, was not to be found in any one part of the declaration, namely, "A Parliamentary Reform," but the whole plan was that of "supporting the Rights of equal, active Citizenship." This phrase was easily understood, and referred to a thing totally different from Parliamentary Reform; not even reconcilable with the plan of Universal Suffrage and Annual Election, but a thing totally at war with the whole frame of our two Houses of Parliament, which the Jury would understand at once when they reflected on the works of Paine, whose plan was that of an entire Representative Government, which excluded both King and Lords altogether.

He then proceeded to take notice of the instructions given to the Delegates of the Scotch Convention, to which Mr. Thelwall had subscribed, and upon which much stress had been laid in the opening Speech for the Defence: that part which was taken notice of in that Speech was constitutional enough; but another part of these instructions was entirely hostile to the very being of all law in this Country, for it inculcated the doctrine of resistance to Acts of Parliament; and there was an end of all security in this Country, if the wisdom and authority of the Legislature was to be judged of, and set aside by the authority of a Debating Society.

The next point to be taken notice of in the Defence, was that of the Lectures delivered by the Gentleman at the Bar. It was pathetically stated by his leading Counsel, in his Speech for the Defence, that the Prisoner delivered these Lectures to support an aged mother, a wife, and helpless offspring; but this was not the fact, for they had the evidence of Mr. Thelwall himself, in a letter of his to a friend, in which he said he applied the whole of the profits of his Lectures to support the Delegates, so that his patriotism was superior to his feelings for his family. And, now that he was on the subject of these Lectures, he must take notice of the evidence of John Taylor—a witness of whom he had not yet spoken; a witness who gave evidence for the Crown, and whose testimony gave scope for the abilities of the Counsel for the Prisoner. A witness who certainly did not stand before the Court as an immaculate witness. The testimony of that person had been impeached, certainly, and God forbid that he should ever attempt to press a Jury to give to it more weight than it really deserved, yet it was but justice to the administration of the law, and to the man himself to say, that he had been pressed a little severely. In the first place he was charged in Court as a convicted felon. That was in terms true, but after a full examination of his case, he had

had not the punishment given in general for such an offence, for he received a sentence from a court, the justice of which had never been yet impeached, to be imprisoned for a fortnight; and to be fined one shilling. Such circumstances of extenuation appeared in his case, that the Court were of opinion, that the slightest punishment was sufficient for his offence. He was further allowed to say, that the prosecution was instituted, not by the party injured, not by his first or his second wife, but by Mr. Pearce, the Clerk of Mr. Martin, now under Indictment for High Treason, and this prosecution was instituted after he had been called upon to give evidence for the Crown, and therefore the motive for the prosecution was not difficult of discovery.—As to his credit, it was certainly proved he had assumed another name. The learned Serjeant said, he did not know the witness could explain this fact, he was unable to explain it for him, and as far as this affected the credit of his testimony, the Prisoner was entitled to the effect of it, for he did not wish to suppress any thing.—The Jury were therefore to consider of the effect of this evidence. If they thought, and the Court thought, that he ought not to be attended to at all, and that he was not competent, they ought not to hear his evidence at all; then the whole of what he had said, should be struck out of the Judge's notes: but these were points to his competency; the effect of the credit due to his testimony, was a question of another nature, and of that the Jury were the only judges, and in that view they would see whether he was confirmed by other circumstances in evidence in the cause, and if the Jury inquired into that, they would find that every part of his evidence was confirmed by other circumstances, and the nature of his evidence was such, that if it was not true, the Prisoner could have called an hundred witnesses to contradict him if they pleased, for he spoke of circumstances which took place in the presence of many hundreds of persons, for he spoke of what he heard Mr. Thelwall deliver at his Lecture, and not one person had been called to contradict him; he would say not one, because he spoke of a particular day and at a particular place. It was true there was evidence for the Prisoner as to the general tenor of some of his Lectures, three or four of them, but that was without specifying the time. He would say therefore upon this point, Taylor remained wholly uncontradicted. The general effect of the evidence for the Prisoner in this respect, was, that the general object of his Lectures was to state grievances under which the People laboured, under a party in the Houses of Parliament, in Courts of Justice, &c. and that he painted them in strong and animated colours. In one of his Lectures, the learned Serjeant said, it was proved that he stated the History of England as being

ing nothing but the dominion of Tyrants, and that we were now governed by a Tyrant who had Thieves and Murderers at his nod. That he was likely to say some unguarded things, Mr. Gurney, one of his Counsel, had proved, and that made the rest of the account the more probable; but all this, be it true or false, he thought might be very well spared, and then abundance would remain in support of this Prosecution.

The proceedings of the 20th of January, at the Globe Tavern, the learned Serjeant maintained to be a direct act of High Treason, and in which Mr. Thelwall was extremely active, and indeed appeared to be the leader; for it appeared that the resolutions, which a deluded multitude of a thousand persons had approved, were prepared by him, and printed two days before. The proceedings of Chalk Farm were under the same circumstances, excepting only that they were not printed. He then read all these resolutions, and strenuously maintained that they were direct and progressive Treason. He said they could admit of but one construction—they were not short of an overt-act of High Treason.

He then took notice of the very able speech of Mr. Gibbs, upon this trial; and he hoped, that that learned Gentleman would excuse him, if he took the liberty of saying, that that part of his speech, in which he took an opportunity to observe that the Jury ought to be equally indifferent to the frowns of power and the applause of the multitude; that observation was followed by another, which was inconsistent with the dignity of his character, for he then told the Jury, they would obtain that applause if they acquitted the prisoner—

Mr. *Gibbs*.—I said no such thing.—If I am regular, I will state what I said—I said, in substance, this, as well as I can recollect, for I had no time to prepare a speech, I was called on a sudden to make one—"The learned Serjeant has cautioned you against being misled by the applause of the multitude—you are not in expectation of any such applause—you will have the applause which Lord Mansfield valued—the applause which good men want—that which is met after you have done your duty, and by doing your duty you will be entitled to the best applause, and it would follow." I do not affect to state the precise words, but this was the sense I meant—far was I from saying the Jury would have applause as a reward for acquitting.

The learned Serjeant expressed himself perfectly satisfied with Mr. Gibbs's explanation, and then continued his Address to the Jury. He took notice of the circumstance of the Foreman of the Jury on the trial of Eaton, having been present at a Meeting where Eaton and others were, and where a medal had been agreed on and afterwards presented by the London Corresponding

ing Society, to that Jury; he reprobated ſuch practices as an inſult to the dignity of Juries, "I know, ſaid he, I am addreſſing men who would ſpurn with indignation, if they met with ſuch an inſult; I know I am addreſſing men equally indifferent to the frowns of power and popular applauſe; who will feel the importance of the cauſe before them; who will forget what was ſaid by me, and will forget what is ſaid by every body, except the evidence before them; who will look ſteadily at the charge in the indictment, and as ſteadily to the defence; who will make uſe of their own underſtandings, and will weigh in even balance the juſtice of the country on the one ſide, and the life of the priſoner on the other, and incline the balance to the ſide of mercy, but who will not ſhut their eyes againſt irreſiſtible proof, if ſuch proof does exiſt in the cauſe, and however painful the duty may be, they will perform it. Gentlemen, lay your hands upon your hearts, and decide on the evidence you have heard."

The *Lord Chief Juſtice*, about one o'clock proceeded to ſum up the evidence. He ſtated a full abſtract of the Indictment, and obſerved, that he perceived, from the courſe of the reply, that it was expected from him to ſum up the whole of the evidence. He proceeded firſt to ſum up the printed and written evidence, deſiring the different papers to be read as he went along. At nine o'clock, having ſummed up the whole of the evidence for the Proſecution, he ſaid that as the evidence for the Priſoner would take up a conſiderable time, and as at any rate he ſhould not be thus able to get through the remarks he had to make on the caſe, it might be a proper time for the Court to adjourn till to-morrow morning.

FIFTH DAY.

FRIDAY, DEC. 5, 1794.

As to the evidence of Taylor, his Lordſhip obſerved, that, with regard to that Witneſs, objections had been made, and warranted, that went to affect his *credit* extremely, although not his *competency*, or ſuch as to prevent his being a Witneſs: on all diſputable points, theſe objections ought and muſt have a great effect on his credit. On the other hand, if it was confirmed by others, theſe objections could not go in total excluſion of his teſtimony: "but, Gentlemen," ſaid his Lordſhip, "you are to judge whether you think him in any, and to what extent, to be attended to."

The *Chief Justice* then addressed the Jury to the following effect:—

This, Gentlemen, is the evidence on the part of the Prisoner, and it is evidence, when collected together, to make a strong impression in favour of the Prisoner at the Bar. It is an affectionate and warm evidence of character; these Gentlemen who give the Prisoner this character, are entitled to credit, and deserve great weight with you. Gentlemen, the statement of the whole of the evidence being brought to a conclusion, you will very soon have to close this solemn inquiry, by exercising that branch of your duty; for I hope not to detain you long preparatory to that exercise. Gentlemen, I take the law to be clear, that they who conspire to overturn the Government, demonstrated clearly, must be said to have conspired to have compassed and imagined the death of the King, and upon that ground an overt-act becomes a proof of that indictment, if that is made out satisfactorily to you. Gentlemen, the real question for your consideration is, a question of fact. My apprehension is, that all the charges in this cause, are included in the first and second statement in the indictment.—The first, conspiring and consulting to procure a Convention to meet with intention to subvert the Government, and to depose the King:—The second, publishing writings, to cause and procure the King's subjects to send delegates to this Convention for that purpose. If this is proved, it is sufficient to maintain this indictment; for although nine overt-acts are charged, it is not necessary they should be all proved; and although other things are laid as overt-acts, such as consulting and agreeing how, when and where, this assembly should be held, and the appointment of persons to consider how, when and where it should be held, and all the remaining points, supposing them all laid in point of form, and supported in point of evidence, yet they seem to me rather to be circumstances belonging to the conspiracy, to procure a Convention, than independent overt-acts of compassing the King's death. That the Prisoner at the bar has participated in the design to assemble a Convention is clear; but for what purpose is the material question for you to consider; and here, Gentlemen, the purpose and intent is a sure matter of fact, not at all a consequential thing, but perfectly additional to it, and must be supplied by those who make the charge against the Prisoner; it is, therefore, wholly on the prosecutors to make that out. They say they can make it out, and they lay before you a train of circumstances as evidence of it. Gentlemen, this evidence comes chiefly out of the proceedings of two voluntary Societies of men, associated together with other Societies from the coun-

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try corresponding with them, I mean these two, the London Constitutional Society, and the London Corresponding Society. Gentlemen, these transactions have been laid before you at considerable length, you have, unfortunately, been obliged to listen to them twice, and to hear comments upon them more than twice. Gentlemen, a few, and but a few observations more, for they shall not be many, by way of preliminary, you shall hear from me; and here I shall say, as I said to a former Jury, that in looking on these proceedings and transactions, for the purpose of discovering the object of the Authors, you ought not to proceed on nice and critical observations, on particular expressions. Men express themselves more or less clearly and accurately, according to the knowledge they have of language and the temper in which they may sit down to write, and it would be dangerous to examine such language very critically, and draw conclusions to their prejudice, but you will read their transactions with a disposition to understand them as favourably as you can, and exercise your judgment on them freely and impartially.

Gentlemen, they say, on the part of the Prosecution, it will appear from these transactions, in the years 1792 and 1793, various acts were done, and measures taken, by these Societies in London, and in populous towns in the Country, to prepare the minds of the People for a Revolution, and for the introduction of a republican form of Government, by the Representation of the People in a Convention, upon the plan of the Convention in France. They say, these Societies have been circulating, with great industry, first the works of Thomas Paine, and afterwards the works of Joel Barlow; and that, in point of fact, such industry has produced great mischief, which is, I think, established by the evidence too clearly to be doubted: of the truth of this, I think, the letter from Wales was so direct a proof, that it carried with it a degree of conviction, which was almost impossible to resist. Gentlemen, I shall not observe any thing to you on the contents of this Paper: they were too apparent and too obvious to escape your observation, and must have made on your minds too deep an impression to be now forgotten by you. They go on in the Prosecution, to say, that in due time these Societies in London, in particular, invite the other Societies in the Country to join them, in appointing a mode of carrying on an intercourse with France—a measure certainly of an hazardous nature, and requiring a great deal of explanation, and which, on the part of the Prisoner, they have attempted to give: you have heard how satisfactory it was; every man alive, I think, must be convinced of the hazard of such proceedings.—The first was

an addreſs to the Society, called the Jacobins in France, while there was a King upon the throne in that Country: Now, for what good purpoſe this could be intended, I am unable to diſcover; and, I think, it would puzzle any human being to explain. They afterwards preſented an Addreſs to the National Convention of France. Gentlemen, you have heard theſe Addreſſes; you will judge whether they are right on the part of the Proſecution: they ſay, they have in truth principally their aſpect towards this Country. You will remember the account given of the letter from the Stockport Society to the Correſponding Society in London, after the Addreſs of the London Correſponding Society was publiſhed: by this Addreſs the Society at Stockport underſtood, that ſome effect was to be produced; but leaves them to gueſs what that effect was to be:—this, Gentlemen, marks pretty ſtrongly in evidence, that the proceedings had a dangerous aſpect; and it is a very remarkable circumſtance, that the firſt time this Society had formed an idea of the Convention, the Society at Stockport ſhould ſhew by their letter, that they apprehended it to be a Convention to be holden in the room of the Legiſlature of the Country:—this was certainly felt; for they ſtated a difficulty of carrying it on, while there was a Houſe of Lords. They aſk, Can a Convention do all this?—To be ſure they could do all they wanted, if they went on the plan of the Convention in France; but it could not help them out of their difficulty, while the Houſe of Lords was to remain.—Gentlemen, on the part of the Proſecution, they have given you an account of Froſt, of the language he uſed at the Bar of the National Convention of France, and the language which the Preſident of the Convention uſed in return; from which they ſay it is manifeſt the Addreſs was conſidered as an Addreſs of Republicans, and that it had the aſpect of a work intended to prepare the way to a Revolution in this country, and that a hope is expreſſed, that the time is not far off, when they ſhall have to felicitate a National Convention in England; and they ſay alſo, that the meaning is too intelligible for a doubt to remain upon it; for they ſay, that the ſubſequent approbation of the conduct of Froſt, and of his language, by the Conſtitutional Society, in the manner that approbation was given, implicates the whole Society with Froſt, for publiſhing this Addreſs.

Gentlemen, I mentioned to you, as I paſſed along, Mr. Horne Tooke ſtated in his evidence, that the Addreſs of the London Correſponding Society, and preſented on their behalf to the National Convention of France, was drawn up by Mr. Joel Barlow; there is no accurate account of the introduction

of

of this gentleman into the Society, or why he was chosen; but, however, he appears to be an honorary member of this Society, and certainly a man who has given unequivocal proof of his devotion to the cause of Republicanism; his book on the Privileged Orders, and his Address to the Convention of France, are too plain to admit of any doubt upon that point; or to admit, possibly, of any explanation to the contrary. It is a singular circumstance, that this Society should have chosen such a man to prepare an Address for them, that a Republican should be employed to prepare an Address for English subjects, and that they should adopt it as their Address. Gentlemen, in point of fact, the French principles which governed the Revolution, and which proceeded to the length of bringing their King to the scaffold, were also adopted in the London Corresponding Society in the course of the year 1793, which appears from the entries in their books, for you find they make Roland, Barrere and St. Andre, honorary members, and this in the moment when one of them had just been speaking in the Convention of France on the trial of the King, and in which he had argued against the inviolability of the King.—The other taking pains to shew that the right of calling a National Convention was inherent in every country in the world, and that such a Convention was capable of superceding all forms of Government. These speeches are taken from the Moniteur, and are entered in the Society; they are never published, it is true, yet all the mischief of publishing them is done by the steps taken by the Society, for by taking this notice of them, they excited the public curiosity, and the mischief is done by publishing their approbation of these sentiments to the world; the mischief arises from that sort of publication more than if the papers themselves had been ever so generally dispersed, for now the public know, if they have the curiosity to turn to the books and proceedings of these Societies, where they may find a doctrine that there is no inviolability in the King. Whether the interpretation given to such proceedings by the prosecutors be right, is for your consideration.

Gentlemen, After this a Convention in England began to be the subject of the transactions of this Society, and from this time they mention it occasionally and lightly; and here the Corresponding Society circulate all over the country, the propriety of discussing three questions: First, whether they should petition the House of Commons; next, whether they should petition the King, and thirdly, whether they should have a Convention, for the purpose, they said, of obtaining a Parliamentary Reform.—Nothing in all this marks out the pre-

cise object of the Convention, if called, and by possibility the object might be a Reform in Parliament.—By possibility also they might mean a great deal more—What they did mean is not to be collected from their expressions, which are ambiguous, but from the general tenor of their transactions, including the period of time I have been speaking of. Gentlemen, a letter from Skirving to Hardy, in May, 1793, was read to you; a very extraordinary letter it is. I am not sure that the word Convention is in it; but whether it is or not, a Convention had at that time been gathering in Scotland —in December, 1792, they met. Their meetings were had two or three times, and then the English Delegates came down, and Skirving had made an allusion to this meeting. Now they say for the prosecution, they were in this Convention, not only diligent in imitating the model of the Convention of France, but that they had also the same views, and that they meant to take place of the Government, and that it was professedly a plan in which some body was to take and assume that Government; for they delineate it with an exactness as will be found to correspond with what afterwards was done, in a way that will justify the prosecution in saying, it was either actually beginning to bring about, or preparatory to bring about, a total revolution in this country. That letter of Skirving conveyed information, that however the plan might originate, the actual effective meeting of the Delegates in Scotland did not take place until the 19th of November. It appears, that at the latter end of October, about the 24th or 25th, Delegates were chosen by the London Corresponding Society, and by the Society for Constitutional Information, and here, gentlemen, the prisoner is introduced to us, for it is here he is first directly implicated in the Society; at this time he becomes a Delegate for one of the Divisions of the Corresponding Society, and he attended that meeting at Hackney-road, when the Delegates for the Convention were chosen, and therefore he was there active, and although he only appears on that day, yet it was not the first time he had taken part in these Societies, for he appears to be one of those who set on foot the Society at Southwark, in the month of April, 1792, I think it was, and the language of the declaration they then printed, does seem to me to go a great way towards establishing what the prosecutors charge on this head of the case. The prisoner appears at this time to be perfectly apprised of the nature of Paine's book in particular, for, undoubtedly, although Mr. Taylor, of Norwich, gave evidence that the prisoner had in view a plan of Universal Suffrage and Annual Election, yet the language of the declaration of this Society, is the language of Paine's book, "Equal, active

Citizenship

Citizenship and Representative Government," containing a plain allusion to the contents of that book; this, therefore, appears to me to be marking the meaning of it pretty strongly. I do not mean to say he meant more than Annual Election and Universal Suffrage, but it shews, at least, that the thought is clothed in words from Paine's book. The prisoner appears afterwards in the London Corresponding Society, and it is plain he had before this been a person not unacquainted with this Society and their plans; and there seems to be sufficient evidence to implicate him in the consequence of its proceedings. He was not active in promoting the Address to the Convention, nor does it appear that he had any thing to do with Skirving's letter.

Gentlemen, you have heard the proceedings of the Scotch Convention from their commencement, until they were put an end to by authority. On the part of the prosecution, they insist that from the strain of that meeting, from the delay of its proceedings, from the assumption of power they manifested, and from the functions they affected to exercise, and from the appearance they made altogether as a body, in the course of the 14 days they sat, it is sufficient evidence to satisfy you, that the whole of that Convention was a plan to supercede the Parliament, and that it was merely initial of what was to be done, that they intended to divide into Sections several Societies, and to do different things to enable them at last to take upon themselves the Government of the country; for this purpose they used all the terms of the National Convention of France: and they say too, that supposing the People of Scotland had given public demonstration of any design to support them, and that more people would come in, and which they were always pressing every body to do, that all these things taken together, what these persons did, must appear to be to prepare the way to overturn the Government;—whether they conclude justly or not, is your province to determine. I must however say, it appears to me that introducing to all the subjects of this country, principles hostile to its Constitution, has a very alarming aspect as to the practical result of these principles; that it had this appearance when these prosecutions were instituted, can hardly be denied; I confess it strikes me now, and I have always thought it the strongest part of the prosecution; however, gentlemen, you are to judge of it.

Gentlemen, they say on the part of the prosecution that the Reform of Parliament which has been alleged in the defence of all who have hitherto come before us under this prosecution, is a mere colour to the case, and that although there is

some

ſome evidence of that, it bears no proportion to the evidence on the other ſide; and they ſay alſo that the very Convention which met, took pains to exclude any idea of an intention to petition Parliament. That at firſt a claim is made in favour of Univerſal Suffrage and Annual Parliaments, and when that comes to be a ſubject of debate, they put it by, and talk of the Rights of Man; and when the queſtion is brought forward, whether Parliament is to be petitioned, they negative the queſtion by calling for the Order of the Day.

Gentlemen, no doubt when the public ſaw, and thoſe who have the care of the Government ſaw, a meeting of this nature, an Aſſembly with ſo much form and organization taking upon itſelf ſo much form and ceremony—When they ſaw them deſcribe their proceedings, dating them on the 10th day of the firſt year of the Britiſh Convention, and opening and cloſing each day, in form and with the ſolemnity of a prayer, and in their acts imitating in every part the proceedings of the Convention of France, it muſt have become a ſubject of ſerious attention, and it certainly did call for the particular attention of Government. They muſt aſk, Why all theſe attacks upon the Monarchy, and againſt the Houſe of Lords—Why ſpeak againſt the two other branches of the Legiſlature? If your object is a Reform in the Houſe of Commons—Why irritate the public mind againſt the whole Government of the country, unleſs you intend to overturn it?—and laſtly, Why make uſe of this machine, the Scotch Convention, unleſs you mean to make uſe of it in a way which you do not profeſs; for it is better adapted to the manners of another country than to ours? And when it was ſeen that they did not proceed at all to promote the cauſe of Parliamentary Reform, certainly the appearance was a very alarming one; the conſequence was, that the authority of Government interpoſed, and the Convention was diſperſed. As ſoon as this was diſperſed, another Convention was meditated in England, and in that deſign the priſoner at the bar is implicated; and now the Correſponding Society begin to aſſume a higher tone, and to uſe more violent language than they had been uſed to aſſume, to prepare the way for this Convention. As they ſay for the proſecution, great pains were taken upon this occaſion, and in this the priſoner is implicated. His own letter ſpeaks of them to be the mover of theſe proceedings, and he is employed in the Committee. Great pains were taken about this time to ſow ſeditious ſeeds among the people; and they ſay on the part of the proſecution, certainly not without colour, to commit overt-acts of High Treaſon, that of compaſſing the death of the King; and it is an extraordinary coincidence, that juſt at this

time

time came out an extraordinary paper indeed, the title of which was, The Ins and Outs.

Gentlemen, after this, comes before you the Lambeth Association, none of whom certainly were inhabitants of Lambeth; they exercise with circumstances of privacy, which certainly always leads to suspicion and alarm, because they who are exercising their arms in a lawful way, have a pride in appearing in a different way; now all this put together, What can it mean? What could a Convention do under such auspices? To petition Parliament is certainly a right measure for any Reform that may be necessary, provided the petition is presented in an orderly manner; or even the nation at large may state its wishes to the legislature, and may, and fairly will, influence the opinion of the legislature; to propose it themselves, the nation at large certainly may, and perhaps it ought to be so proposed, when any such thing is seen to be the general wish, and the interest of the nation requires it. There is nothing in that which makes it a crime simply of itself; but if such measure is adopted great care ought to be taken to do it in such a manner, as not to break in upon the public peace of the country; and with this explanation, I would ask, What was the object of this Convention? Gentlemen, when persons engaged in such a project for a Convention under such circumstances, pretend, and even bring witnesses to swear there was no other object than to promote a Parliamentary Reform, perhaps it would not be unfair to ask them, "Do you mean to gather grapes from thorns and figs from thistles?" Is such a convention adapted to the end, they say, they had in view? Will they conduct themselves as men who had that end? Will they not mislead the honest part of mankind, who have not the capacity to see the meaning of their leaders? I have looked very anxiously to see whether the meaning of these persons was a Reform in Parliament; I cannot say I have found that meaning; it does appear to me that the want of finding that meaning forms the principal ground of the prosecution to be made out to your satisfaction, and that it was not the design of this Convention to produce a Parliamentary Reform, but a Revolution. This certainly, called for an answer on the part of the gentleman at the bar, as well from the charge generally, as from the nature of the particular evidence, as to the proceedings of the Society, and to him personally. I must say that the mode of defending the whole case on the part of the learned gentleman, who took the lead in the defence, was in much too high a tone, when it was said the charge does not deserve an answer. I do not mean to say any thing against the learned gentleman's abilities, he knows my opinion of him too well to suppose I have any

ſuch intention; for that very ingenious gentleman I have great reſpect. He ſpoke upon that occaſion in a tone of indignation; there was in that, perhaps, a judicious management, for that might be a good cover and ſhield to the anſwer he was to give, for nothing gives confidence ſo much as feeling very boldly upon it; and I do not mean to arraign it. What is the anſwer they give? They ſay they may have acted imprudently, raſhly, and, perhaps, criminally, but that is not a proof that they intended to overturn government, and that is true, for that is poſſible enough.—They ſay no more was meant than a Reform in Parliament, and whether or not they acted incautiouſly, and whether they acted in a manner that might have the effect of overturning government, yet no man can be found guilty upon this indictment, unleſs it can be proved he acted with that intent. That is alſo true, and perhaps the laſt way of conſidering the caſe will be the moſt uſeful to the gentleman at the bar, for it is clear that more might have been done by this Convention than obtaining a Reform in Parliament; but unleſs it appears that the priſoner intended to overturn government, this indictment is not proved—this muſt be proved or nothing is done.

As to the witneſſes, whoſe evidence makes for the priſoner, three of the witneſſes called for the proſecution—Taylor, Daviſon, and Gurney, have diſtinctly ſworn that the only object of the Societies was a Reform in Parliament. From this evidence we may juſtly conclude, that ſuch was really the original object of a number of well-meaning men embarked in theſe ſocieties, whatever might be the motives and views of others. Univerſal Suffrage and Annual Parliaments preſent indeed a ſpecious and captivating object; unfortunately, however, we have to lament the effect which ſuch an idea has had in unſettling the minds of men, and alienating their affections from the eſtabliſhed government of the country. Of this effect we have had more than one proof afforded us in the preſent cauſe. I could not, I muſt confeſs, help being very much ſtruck with what dropped from one of the witneſſes, Edwards, a member of the Correſponding Society. He ſaid, that he had armed himſelf with a pike, becauſe if the Heſſians had marched into the country without conſent of Parliament, he conceived that he was entitled to reſiſt their progreſs; and this he ſaid with all the confidence of being right in his poſition. It appeared to me extraordinary at the time, that a young man's mind ſhould be ſo influenced by the principles which he had imbibed in theſe Societies, as to have adopted ſuch a notion. Nor was this all. Mr. Parkinſon, a grave, ſober, profeſſional man, ſtated, that he conceived the

the proceedings at the Globe Tavern to have been perfectly legal and peaceable. Mr. Stewart Kydd, a barrister of considerable standing, a man supposed to be intimately acquainted with the Constitution of the country, and to whom the subject looks for the protection of his life and property, conveyed his approbation of these proceedings in nearly the same terms. It is almost unaccountable from what perversion of mind men can be led to adopt such ideas. Good God! what must be the situation of the country, when such sentiments are not only entertained, but avowed in a Court of Justice! What can we infer from a circumstance which appears on this trial, of the Foreman of a Jury sitting down with some other persons on a Fast Day, to turn into ridicule the authority of the established legislature of the country! Such a circumstance affords indeed a subject of melancholy consideration. There is no doubt that men influenced by this enthusiasm may be very much in earnest, when they tell you that they will pursue their object of Reform at the hazard of their lives. But if the great number of men of rank, of property, and of the soundest judgment think this plan of Reform ruinous to the country, and that if adopted, it would tend to destroy it, are the persons actuated by this enthusiasm to go on to disturb the peace of the community at the hazard of their lives? Among what order of men were these notions disseminated? among the promiscuous multitude assembled at Chalk Farm, and the ten thousand, who, we were told, were on a similar occasion collected at Sheffield. It is possible that some of the witnesses may have given a very honest evidence, as to what they believed to be the object of these societies. But at the same time, it is by no means improbable, that they may have all the while been only the mere instruments of determined Republicans, cloaking their real purpose under a plausible pretext, and leading on step by step; not knowing either what they were doing or where they were going. One instance of this may be produced from what has appeared in evidence against the prisoner is, that he, as delegate, reported at one of the meetings, "that from the very great importance of some objects then to be discussed, it would be proper to appoint a Committee of Secrecy for the purpose of taking them into consideration." Thus every thing previously concerted in the Committee, was at once brought forward in the Society, and immediately voted, without the great number of the members having any opportunity to form their own judgment upon the subject, or consider the nature and extent of the proposition to which their assent was required. In consequence of this mode of proceeding, the evidence of indi-

viduals weighs but little as to the general conduct and object of the Society. One circumſtance it muſt be owned, is moſt extraordinary, that in all the maſs of printed and written evidence relative to the proceedings of the Societies, there appears not one ſingle declaration of loyalty to the Sovereign, or attachment to the Conſtitution. This is indeed wonderful, if it happened merely by accident, and if otherwiſe, it gives great weight to the inference drawn from the letter from Stockport, and other papers, in which, though pointedly called on to declare what were their ſentiments of the Monarchy and Ariſtocracy, they choſe in their anſwers to obſerve the moſt perfect ſilence on theſe topics.—Theſe remarks do not certainly apply to ſome of the witneſſes, who from the circumſtances in which they were placed, and the active ſhare which they took in the proceedings, muſt have known theſe Societies to the bottom, and have been fully appriſed what were the real nature and extent of their views. What weight and credit is due to the evidence of theſe witneſſes, in the ſituation in which they ſtand, is for you, Gentlemen, to determine.

The proſecution contend that all idea of any application to Parliament had been renounced by theſe Societies. I do not find from the evidence that appears on this trial, that ſuch abſolutely was the caſe; indeed all the evidence to eſtabliſh this point, which was brought forward on the former trials, has not, in the preſent inſtance, been produced. The propoſition of applying to Parliament was certainly not made on occaſions, in which it might have been expected, as at the Meetings of the Scotch Convention; but at the ſame time this is not ſufficient to lead to the concluſion, that ſuch an idea had been entirely abandoned; for if their object in calling a Convention, was to influence Parliament by their numbers, it cannot be ſuppoſed that they hoped that of the numbers who came to that Convention, all would have been equally diſpoſed to give up the idea of applying to Parliament. God forbid, that all thoſe, who were engaged in thoſe Societies, ſhould have been agreed in this point! I ſtill cling faſt to the expectation, that whatever might be the views of the leaders, the greater number were deſirous only of a Reform, to be purſued by legal means. It is only from this principle that we can account for the ſtrange mixture of violence and moderation, which appears in ſome of their papers. Thus in the circular letter of Hardy, after every topic has been urged, that can tend to inflame and irritate the minds of the People, the concluſion ſtates only the peaceable object to be in view, of holding a Convention for the purpoſe of Reform. Such were the means which they employed to gain all ſorts of perſons, and bring about their own end, and this is the only key that can be

found

found to that ſtrange, and otherwiſe unaccountable mixture of violence, which we find immediately followed up with propoſing a peaceable object. If the reſult of the evidence in your judgment is, that a peaceable Reform was the ſole object of thoſe Societies, or of that Convention, it at once decides the caſe in favour of the Priſoner; and in the event of ſuch being your judgment, I have only to lament that there ſhould have appeared circumſtances of ſuch ſuſpicion as to warrant the preſent proceedings, and that the Priſoner ſhould have ſo conducted himſelf as to have drawn down upon his head the animadverſion of the Criminal Juſtice of the Country. On the part of the Priſoner ſeveral witneſſes have been brought forward. Mr. Horne Tooke ſays, that he approved about a third of Paine's work? that he had marked thoſe paſſages which he did not approve. But why did he not publiſh the work with the pages thus marked; he might then have done ſome good. Why did he ſend it forth to the world without taking any precaution to guard againſt the miſchievous impreſſion which might be made by that part of the contents which he himſelf ſtated that he did not approve? Why did he leave it to be read by perſons of all conditions and tempers, who might be incapable of diſcriminating for themſelves? It was evident that the reaſon aſſigned by this witneſs, for the approbation which the Society had given to the works of Paine, was by no means ſatisfactory. The ſame witneſs had aſſigned alſo as a reaſon for approving of the Addreſs ſent to the French Convention, that he had perſonal reaſon to think ill of that Government. But was this a ſufficient ground why he ſhould take a public meaſure that might affect the Government of the country, and draw the attention of the People of Great Britain to the French Revolution as an object of imitation? This reaſon aſſigned for ſuch a meaſure was as little ſatisfactory as the former. That Joel Barlow, a man of his known principles, was the Author of this Addreſs from the Engliſh Society to the French Convention, is a circumſtance that only loads the tranſaction, and renders it ſtill more incapable of explanation. But there is other evidence for the Priſoner which has more weight: Horne Tooke, Kydd, and Parkinſon, have all borne witneſs to his peaceable diſpoſition, and the moderation of his public ſentiments; after the ſpecimens which ſome of theſe Gentlemen have given of their own temper, and of what they conceived to be legal and peaceable proceedings, you will judge what weight their teſtimony on this head ought to have with reſpect to the priſoner. On the evidence they gave with reſpect to the amiableneſs of his deportment in private life, there is nothing to be remarked. Three other reſpectable witneſſes, not at all implicated with politics—Cline, Clark, and Wilſon—have given the

Priſoner

Prisoner a very excellent character as to his conduct in all the relations of life. Indeed, when we consider the very good character which these Gentlemen have given him, we cannot read, without astonishment, the very bad character which, with that peculiar luxuriance of fancy ascribed to him, he has thought proper to give to himself. Indeed with all the peculiarity of temper with which the Prisoner has been described, and for which allowance is to be made, there is still a great deal in his conduct for himself to explain, if not to blush for. Considering him as having had the advantage of education, as a man of letters, associating with the company of Gentlemen, and above all, as a British subject; considering him, I say, in all these points of view, and with all these advantages, how it is possible that he should have so acted, and have fallen into such expressions as have been proved against him, is indeed so extraordinary a puzzle as cannot possibly be explained. But the strong part of the Prisoner's case arises from the acquittals that have already taken place of six persons charged in the same Indictment; Hardy, Tooke, Holcroft, Joyce, Kydd, and Bonney. The acquittals of these persons do not indeed embarrass the case in point of law; for undoubtedly the Prisoner might have conspired singly, or in conjunction, as charged in the Indictment, with other persons unknown. But the way in which these acquittals operate with respect to the case, is this: In consequence of the charge of conspiring having failed to be established against these persons, a great gap is made in the evidence. He must have conspired with some body; the persons charged in the Indictment, were those who composed the Committee of Co-operation; the conspiracy not having been proved against them, the Prisoner must therefore be fixed by some evidence more directly applicable to himself. The acts committed, as a Member of that Committee, cannot now be imputed to him as crimes.—You may, indeed, suppose the Delegates from the one Society entirely innocent of the Conspiracy, and that the whole rests with the Corresponding Society; still, however, it must be confessed, that there remains considerable difficulty upon this statement. If you get over this difficulty, you may find what, perhaps, is the true state of the case, that the Conspiracy rests with the Prisoner, who gives some evidence to this purpose, in the letter in which he speaks of his own activity, as a leader of the Society, and stiles it the only true Sans-culottes Society.—That Society, indeed, gives a more unfavourable impression than any of the others, both as to the nature of its views, and its capacity in doing mischief. In its very first formation, it set out with a definition of the terms Démocrat and Aristocrat, in which it expresses the most thorough contempt for the latter character.

character. How far this goes to fix the particular charge against the prisoner is for you now to consider. The whole of the question which you have now to determine, is reduced to this—Whether the object of the proposed Convention was, as charged in the indictment, a conspiracy to depose the King, and subvert the Constitution; and whether the prisoner took such a part in concerting the plan of this Convention, as to fix upon him the guilt of participating in this object? In which case there are grounds for you to find your Verdict—Guilty: or, Whether there was no such conspiracy as is charged, or the prisoner not a party in that conspiracy? or, lastly, Whether there are such serious doubts in the way of the evidence, as you are not able to get over them?—And in either of these cases, you will find your Verdict—Not Guilty. Gentlemen, you will now retire to consider of your Verdict.

In the absence of the Jury, the Lord Chief Justice spoke nearly to the following purport: "The Jury being withdrawn, I will now state, that, at the last trial which took place in this Court, the decorum and dignity of a Court of Justice were much insulted by the improper conduct of the audience in breaking out into a loud shout of applause at the delivery of the verdict. I am sorry that it happened, and still more so to say, that I think I saw a barrister upon that occasion shouting and clapping his hands. I hope that no such insult will ever be again offered to a Court of Justice, for nothing can be more indecorous, than to express by shouts, or otherwise, satisfaction or dissatisfaction at the verdict of a Jury. I therefore give this caution, that if any person in this Court shall so misconduct himself on the present occasion, if he be marked and discovered, he will be immediately sent to Newgate."

The Jury, after being withdrawn about one hour and fifty minutes, returned to their box, and the Foreman pronounced their verdict

NOT GUILTY.

An involuntary, and in justice to the audience we must say partial, shout of applause immediately took place, but was almost as immediately checked by a sense of propriety and respect to the authority of the bench from which they had so lately received a caution. This effusion of applause was so instantaneous and electric that it could neither be traced from what quarter it originated, nor discovered by what individuals it was bestowed. It served, however, as a signal to the multitude without, by whom it was caught in a moment, and repeated with such force, as for some minutes to prevent the prisoner,

prisoner, who had risen to address the Court, from being able to make himself heard.

Mr. Thelwall then addressed the Court to the following effect:—

"My Lord, and Gentlemen of the Jury,

"If any thing could increase the affection I bear my country, if any thing could add to the reverence I have and always had for its laws, it is the circumstance of my being now acquitted. If a plain, simple, unconnected man, without a fortune or connexions, without comfort, and almost without hope, after having laboured for 12 months, under the calumny of party writers, under the irritation of mind which the virulence of that party naturally produced in a temper naturally warm. If, after seven months imprisonment, where I could see no friends, and my friends did not dare to vindicate me, lest their fate should be as dismal as my own. If, under all these accumulated hardships, such a man should now solicit permission to declare his sentiments, this Court, he trusts, will be pleased to grant him that favour. Twelve Gentlemen, on the evidence they have heard, and the oath they have taken to examine, have at length published to the world, that I am an innocent man, and, being so, I am protected, helpless as I am, which tells me plainly that there is in this country, law, and justice, in the administration of which the heart of every good man delights.

"There is a part of the charge against me which requires me to explain. I shall call on posterity, whose good opinion I hope to obtain, to declare of me, as now I do for myself, solemnly, in this Court, and before God, that I never was actuated with the most distant wish to overturn the Government, the Law, or the Religion of my Country—that no part of my political conduct was intended for any purpose but that of the happiness of mankind—that all I aimed at was a melioration of the condition of my fellow-beings—that the mode by which I hoped to obtain it was peaceable—that I intended to use no force but the force of reason—that no man in this Court, in this Country, nor in the Universe, more heartily abhors all violence than I do. A great part of that active life which I have so pompously, foolishly, and ridiculously dwelt upon, in a letter which has been read in evidence against me, I have spent in opposing all systems whatever. That letter I never sent to any; I never saw it after it was written; if I had happened to lay hold of it, I should have made the best use I could of such nonsense and bombast, of which I am ashamed—I should have burnt it. Foolish bombast, which might have escaped me, were

were fine themes for the genius of our Lynhams, our Taylors, and all ſpies, to take up and mould into a tale, to try to take away the life of an human being. With regard to arms, I can only ſay, as one of the witneſſes ſwore, that the pen was my only artillery. With guns and pikes I have nothing to do—inſtruments of deſtruction I abhor; and I believe there will be a time when they will be driven out of ſociety, and hated for having ſo often made the faithful wife a mournful widow, and the helpleſs orphan an outcaſt. To enter into the particulars of my caſe would not become me here; but I ſhall take an opportunity of making it known to the public."

Chief Baron of the Exchequer.—" I muſt remind you, as my Lord Chief Juſtice reminded Mr. Holcroft, that it is no part of the duty of the Court to hear your declaration of intention.—A little warmth of temper we muſt overlook. I feel great pleaſure in hearing you diſavow all violence, Mr. Thelwall."

Mr. *Thelwall.*—" My Lord and Gentlemen, I beg leave to return you my moſt ſincere Thanks."

Chief Baron—" The Jury have paid very great attention to your cauſe, and they deſerve your thanks for it, and their verdict is an honourable circumſtance to your character. Perhaps there never has been an inſtance in which a Jury has been called upon to go through ſo ſevere a ſervice, and it muſt be a great ſatisfaction to you, to reflect on the attention they have beſtowed on your caſe. I hope it will have a good effect upon you, and that you will not purſue with raſhneſs, even an object that appears to you to be good, and if ever you again enter into any plan with others, you will judge of it temperately and deliberately, and I hope the appeal you have made will not be made in vain. You are now, Sir, diſcharged."

The Court adjourned to Monday next.

After the acquittal of Mr. Thelwall, Mr. Erſkine and Mr. Gibbs, the Counſel for the Priſoner, were drawn from the Court to Serjeant's Inn by an immenſe multitude, and amidſt the moſt lively acclamations.

Mr. Erſkine addreſſed the croud from his window to nearly the following effect:

" *Gentlemen*,

" I will ſay a very few words to you upon the preſent occaſion, and they ſhall be but few, for no words are adequate to

expreſs the ſenſe of gratitude entertained by myſelf and my excellent friend, Mr. Gibbs, for the repeated proofs we have lately received of your approbation of our conduct. We have only done our duty in the arduous taſk to which we have been called. The glorious event in which you expreſs ſo much ſatisfaction, the acquittal of Mr. Thelwall, is to be aſcribed ſolely to the protection of the law of England, which I truſt will at all times be extended to every individual in the ſame circumſtances. I call ſeveral of you who were here laſt night in the abſence of my excellent friend, Mr. Gibbs, to witneſs that I refuſed to give you the ſmalleſt intimation of that verdict which I hoped for, and that, though repeatedly required, I would not even take upon me to ſay at what time it might be expected to be given, becauſe it did not become me to anticipate any thing with reſpect to a verdict, which reſts ſolely with the Jury. Mr. Thelwall, by the manner in which he has conducted himſelf, has ſhewn himſelf to be worthy of the verdict which has been given. He has not merely gloried in his innocence, but while he, in a manly manner, diſclaimed the charge brought againſt him, has ſpoken with reverence, love, and humility of the laws by which he has been acquitted, and deported himſelf in a manner, which, in my opinion, will do him immortal honour. It becomes you, alſo, like him, to ſhew reſpect for the laws, on the preſent occaſion. Thus, while you defeat the machinations of turbulence, you will remove all pretext for any miſrepreſentation of the approbation which you have now given to the triumph of the Juſtice of your Country. Let me entreat of you, then, to return peaceably to your homes, and thank God for what has paſſed today."

This ſhort Addreſs was followed by a loud ſhout of applauſe; after which the croud peaceably diſperſed.

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